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BILLS,

PUBLIC:

FOUR VOLUMES.

—(4.)—

PRISONS

TO

WORKS, PUBLIC (IRELAND).

Session

31 *January*——17 *July* 1837.

VOL. IV.

1837.

BILLS:

1837.

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7° GUL. IV.

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AN ACT to suspend for a limited time the operation of Two Acts passed in the last Session of Parliament, for registering Births, Deaths and Marriages in *England*, and for Marriages in *England* - - - (24 *Feb.* 1837).

II. AN ACT to amend an Act passed in the Seventh Year of His present Majesty, for consolidating and amending the Laws relating to the Presentment of Public Money by Grand Juries in *Ireland* - - - - - - - - - - (24 *February.*)

III. AN ACT for transferring to the Commissioners of the Admiralty all Contracts, Bonds and other Securities entered into with the Postmaster-General in relation to the Packet Service - - - - - - - - - - - - - (18 *March.*)

IV. AN ACT to continue until the First Day of July One thousand eight hundred and thirty-seven, the Powers of the Commissioners for inquiring concerning Charities in *England* and *Wales* - - - - - - - - - - - (18 *March.*)

V. AN ACT for amending an Act of his late Majesty, for restricting the Punishment of Leasing-making, Sedition and Blaspheming in *Scotland* - - - (18 *March.*)

VI. AN ACT to apply the Sum of Two Millions to the Service of the Year One thousand eight hundred and thirty-seven - - - - - - - - (22 *March.*)

VII. AN ACT for punishing Mutiny and Desertion, and for the better Payment of the Army and their Quarters - - - - - - - - - - (21 *April.*)

VIII. AN ACT for the Regulation of His Majesty's Royal Marine Forces while on Shore - - - - - - - - - - - - - - - (21 *April.*)

IX. AN ACT to amend several Acts relating to the Royal Mint - (21 *April.*)

X. AN ACT to alter, amend and continue for a certain period, an Act for repealing certain Acts relating to the Removal of Poor Persons born in *Scotland* and *Ireland*, and chargeable to Parishes in *England*, and to make other Provisions in lieu thereof - - - - - - - - - - - - - (21 *April.*)

XI. AN ACT to apply the Sum of Eight Millions, out of the Consolidated Fund, to the Service of the Year One thousand eight hundred and thirty-seven - - (5 *May.*)

XII. AN ACT to indemnify such Persons in the United Kingdom as have omitted to qualify themselves for Offices and Employments, and for extending the time limited for those purposes respectively until the Twenty-fifth Day of March One thousand eight hundred and thirty-eight; and for the Relief of Clerks to Attornies and Solicitors in certain Cases - - - - - - - - - - - (8 *June.*)

XIII. AN ACT to amend the Acts for regulating the General Penitentiary at *Millbank* - - - - - - - - - - (8 *June.*)

XIV. AN ACT to explain and amend Two Acts relating to Trial by Jury in *Scotland* - - - - - - - - - - - (8 *June.*)

XV. AN ACT to discharge His Majesty's Manor and Demesne Lands at *Newark* in the County of *Nottingham* from any Costs of rebuilding or repairing *Trent* and *Markham* Bridges, and to charge the same on the other Hereditary Revenues of the Crown - - - - - - - - - - - - (8 *June.*)

XVI. AN ACT for raising the Sum of Eleven Millions by Exchequer Bills, for the Service of the Year One thousand eight hundred and thirty-seven - (8 *June.*)

XVII. AN ACT for carrying to the Consolidated Fund certain Monies paid into the Exchequer, and usually applied as a Part of the Annual Aids and Supplies; and for cancelling Stock transferred to the Commissioners for the Reduction of the National Debt on account of the Redemption of Land Tax - - - - - (10 *June.*)

1° VICT.

Cap. *Royal Assent.*

XVIII. AN ACT for continuing until the First Day of June One thousand eight hundred and thirty-nine, and to the End of the then Session of Parliament, the several Acts for regulating the Turnpike Roads in *Great Britain* which will expire with the present or with the next Session of Parliament - - - - - - - - - - - - (30 *June.*)

XIX. AN ACT to empower the Recorder or other Person presiding in Quarter Sessions in Corporate Cities and Towns, and Justices of the Peace for Counties, Ridings or Divisions, to divide their respective Courts in certain Cases - - - - (30 *June.*)

XX. AN ACT for transferring and vesting the Royal Military Canal, Roads, Towing Paths and the Ramparts and other Works belonging thereto, and all Estates and Property taken and occupied for the same, in the Counties of *Kent* and *Sussex*, and also the Rates and Tolls arising therefrom, in the principal Officers of His Majesty's Ordnance - - - - - - - - - - - - (30 *June.*)

XXI. AN ACT to amend the Acts for the Extension and Promotion of Public Works in *Ireland* - - - - - - - - - - - - - - (30 *June.*)

XXII. AN ACT to explain and amend Two Acts passed in the last Session of Parliament, for Marriages, and for registering Births, Deaths, and Marriages, in *England* - - - - - - - - - - - - - (30 *June.*)

XXIII. AN ACT to abolish the Punishment of the Pillory - - (30 *June.*)

XXIV. AN ACT to explain and amend an Act of the Seventh Year of His Majesty King George the Fourth, to provide for improving and rebuilding Shire Halls, County Halls, and other Buildings for holding the Assizes and Grand Sessions, and also Judges' Lodgings, throughout *England* and *Wales* - - - - - - - (30 *June.*)

XXV. AN ACT to make more effectual Provisions relating to the Police in the District of *Dublin* Metropolis - - - - - - - - - - - (3 *July.*)

XXVI. AN ACT for the Amendment of the Laws with respect to Wills - - - - - - - - - - - - - (3 *July.*)

XXVII. AN ACT for granting to Her Majesty, until the Fifth Day of July One thousand eight hundred and thirty-eight, certain Duties on Sugar imported into the United Kingdom, for the Service of the Year One thousand eight hundred and thirty-seven - - - - - - - - - - - (3 *July.*)

XXVIII. AN ACT to amend an Act of the Third and Fourth Years of His late Majesty, for the Limitation of Actions and Suits relating to Real Property, and for simplifying the Remedies for trying the Rights thereto - - - - - - - (3 *July.*)

XXIX. AN ACT for enabling Her Majesty to grant the Rank of General Officers to Foreigners now bearing Her Majesty's Commission, and to permit the Enlistment of Foreigners under certain Restrictions - - - - - (12 *July.*)

XXX. AN ACT to abolish certain Offices in the Superior Courts of Common Law, and to make Provision for a more effective and uniform Establishment of Officers in those Courts - - - - - - - - - - - - - - (12 *July.*)

XXXI. AN ACT for continuing Military Commissions and Commissions in the Royal Marines in force notwithstanding the Demise of the Crown - - - - (12 *July.*)

XXXII. AN ACT to repeal the several Laws relating to the Post Office - - - - - - - - - - - - - - (12 *July.*)

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XXXVI. AN ACT for consolidating the Laws relative to Offences against the Post Office of the United Kingdom, and for regulating the judicial Administration of the Post Office Laws, and for explaining certain Terms and Expressions employed in those Laws - - - - - - - - - - - - - (12 *July.*)

XXXVII. AN ACT to continue until the First Day of July in the Year One thousand eight hundred and thirty-eight, and from thence to the End of the then next Session of Parliament, an Act for the more effectual Administration of the Office of a Justice of the Peace in and near the Metropolis - - - - - - - - (12 *July.*)

XXXVIII. AN ACT for raising the Sum of Thirteen millions Six hundred and twenty-three thousand Three hundred Pounds by Exchequer Bills, for the Service of the Year One thousand eight hundred and thirty-seven - - - - - - - (12 *July.*)

XXXIX. AN ACT to interpret the Words "Sheriff," "Sheriff Clerk," "Shire," "Sheriffdom," and "County," occurring in Acts of Parliament relating to *Scotland* - - - - - - - - - - - - - (12 *July.*)

XL. AN ACT to continue an Act of the Fifty-fourth Year of His Majesty King George the Third, for rendering the Payment of Creditors more equal and expeditious in *Scotland*, until the First Day of May One thousand eight hundred and thirty-eight, and from thence to the End of the then next Session of Parliament - - - - (12 *July.*)

XLI. AN ACT for the more effectual Recovery of Small Debts in the Sheriff Courts, and for regulating the Establishment of Circuit Courts for the Trial of Small Debt Causes by the Sheriffs, in *Scotland* - - - - - - - - - - (12 *July.*)

Cap. *Royal Assent.*

XLII. AN ACT to continue until the Thirty-first Day of December One thousand eight hundred and thirty-eight, and from thence to the End of the then next Session of Parliament, an Act of the Ninth Year of His Majesty King GEORGE the Fourth for the Administration of Justice in *New South Wales* and *Van Diemen's Land* (12 *July.*)

XLIII. AN ACT to amend the Laws for the Recovery of Small Debts by Civil Bill in *Ireland* (12 *July.*)

XLIV. AN ACT to provide for the Costs of Prosecutions for concealing the Birth of Children by secret burying or otherwise disposing of their Dead Bodies (12 *July.*)

XLV. AN ACT to alter the Mode of giving Notices for the holding of Vestries, of making Proclamations in Cases of Outlawry, and of giving Notices on Sundays with respect to various Matters (12 *July.*)

XLVI. AN ACT to vest the Rolls Estate in Her Majesty, and to provide for the future Payment of the Salary of the Master of the Rolls and the Expenses of the Rolls Chapel (12 *July.*)

XLVII. AN ACT to repeal the Prohibition of the Payment of the Salaries and Allowances of the *East India* Company's Officers during their Absence from their respective Stations in *India* (12 *July.*)

XLVIII. AN ACT to appoint a Second Commissioner of Bankrupt in *Ireland*; and to amend an Act passed in the Sixth and Seventh Years of the Reign of His late Majesty King WILLIAM the Fourth, intituled, "An Act to amend the Laws relating to Bankrupts in Ireland" (12 *July.*)

XLIX. AN ACT to amend certain Laws of Excise relating to the Duties on Malt made in the United Kingdom (12 *July.*)

L. AN ACT to facilitate the Conveyance of Lands and Buildings for the Purposes of Two Acts passed respectively in the Fifth and Sixth Years of His late Majesty King WILLIAM the Fourth (15 *July.*)

LI. AN ACT to authorize a further Issue of Exchequer Bills for Public Works and Fisheries and Employment of the Poor, and to amend the Acts relating thereto (15 *July.*)

LII. AN ACT to suspend to the End of the next Session of Parliament the making of Lists and the Ballots and Enrolments for the Militia of the United Kingdom (15 *July.*)

LIII. AN ACT to explain and amend an Act of the Sixth and Seventh Years of His late Majesty, for extinguishing the Secular Jurisdiction of the Archbishop of *York* and the Bishop of *Ely*, in certain Liberties in the Counties of *York*, *Nottingham* and *Cambridge* (15 *July.*)

LIV. AN ACT to provide more effectual Means to make Treasurers of Counties and Counties of Cities in *Ireland* account for Public Monies, and to secure the same (15 *July.*)

LV. AN ACT for better regulating the Fees payable to Sheriffs upon the Execution of Civil Process (15 *July.*)

LVI. AN ACT for amending the several Acts for the Regulation of Attornies and Solicitors (15 *July.*)

LVII. AN ACT to impose certain Duties of Excise on Sugar made from Beet Root in the United Kingdom (15 *July.*)

LVIII. AN ACT to revive and continue, until the Sixth Day of April One thousand eight hundred and thirty-eight, an Act of the last Session of Parliament, for suspending Proceedings for recovering Payment of the Money advanced under the Acts for establishing Tithe Compositions in *Ireland* (15 *July.*)

LIX. AN ACT to postpone until the First Day of January One thousand eight hundred and thirty-nine, the Repayment of certain Sums advanced by the Bank of *Ireland* for the Public Service (15 *July.*)

LX. AN ACT for correcting mistaken References to His late Majesty in Acts of this Session of Parliament (15 *July.*)

LXI. AN ACT to extend an Exemption granted by an Act of the last Session of Parliament from the Duties of Assessed Taxes, in respect of certain Carriages with less than Four Wheels, and to amend the Laws relating to the said Duties (15 *July.*)

LXII. AN ACT to authorize Her Majesty, until Six Months after the Commencement of the next Session of Parliament, to carry into immediate Execution, by Orders in Council, any Treaties, Conventions or Stipulations made with any Foreign Power or State for the Suppression of the Slave Trade (15 *July.*)

LXIII. AN ACT to defray the Charge of the Pay, Clothing and contingent and other Expenses of the Disembodied Militia in *Great Britain* and *Ireland*; and to grant Allowances in certain Cases to Subaltern Officers, Adjutants, Paymasters, Quartermasters, Surgeons, Assistant Surgeons, Surgeons' Mates, and Serjeant-Majors of the Militia, until the First Day of July One thousand eight hundred and thirty-eight (15 *July.*)

LXIV. AN ACT for regulating the Coroners of the County of *Durham* (15 *July.*)

LXV. AN ACT to render valid certain Acts done in the Performance of Duties in the Court of Exchequer in *Scotland*, by the Lord Ordinary on the Bills in the Court of Session, and for the better Regulation of the said Court of Exchequer (15 *July.*)

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LXVII. AN ACT to amend an Act of the Fifth Year of his Majesty King George the Fourth, for consolidating and amending the Laws relative to the Arbitration of Disputes between Masters and Workmen	(15 *July.*)
LXVIII. AN ACT to provide for Payment of the Expenses of holding Coroners' Inquests	(15 *July.*)
LXIX. AN ACT to amend an Act for the Commutation of Tithes in *England* and *Wales*	(15 *July.*)
LXX. AN ACT to authorize the Commissioners for the Affairs of *India* and the Court of Directors of the *East India* Company to suspend the subsisting Enactments concerning the Fourfold System of Nomination of Candidates for the *East India* Company's College at *Haileybury*, and for providing during such Suspension for the Examination of Candidates for the said College	(15 *July.*)
LXXI. AN ACT to continue until the First Day of August One thousand eight hundred and thirty-eight, and to the End of the then Session of Parliament, Two Acts of the last Session of Parliament, for suspending Appointments to certain Dignities and Offices in Cathedrals and Collegiate Churches, and to Sinecure Rectories, and for preventing the immediate Effects on Ecclesiastical Jurisdictions of the Measures in progress for the Alteration of Dioceses	(15 *July.*)
LXXII. AN ACT to provide for the Appointment of Lords Justices in the Case of the next Successor to the Crown being out of the Realm at the Time of the Demise of Her Majesty	(15 *July.*)
LXXIII. AN ACT for better enabling Her Majesty to confer certain Powers and Immunities on Trading and other Companies	(17 *July.*)
LXXIV. AN ACT to restrain the Alienation of Corporate Property in certain Towns in *Ireland*	(17 *July.*)
LXXV. AN ACT to prolong for Ten Years Her Majesty's Commission for building New Churches	(17 *July.*)
LXXVI. AN ACT to impose Rates of Packet Postage on *East India* Letters, and to amend certain Acts relating to the Post Office	(17 *July.*)
LXXVII. AN ACT to assimilate the Practice of the Central Criminal Court to other Courts of Criminal Judicature within the Kingdom of *England* and *Wales*, with respect to Offenders liable to the Punishment of Death	(17 *July.*)
LXXVIII. AN ACT to amend an Act for the Regulation of Municipal Corporations in *England* and *Wales*	(17 *July.*)
LXXIX. AN ACT to apply the Sum of Five millions Two hundred and twenty thousand Pounds out of the Consolidated Fund to the Service of the Year One thousand eight hundred and thirty-seven, and to appropriate the Supplies granted in this Session of Parliament	(17 *July.*)
LXXX. AN ACT to exempt certain Bills of Exchange and Promissory Notes from the Operation of the Laws relating to Usury	(17 *July.*)
LXXXI. AN ACT to provide for the levying of Rates in Boroughs and Towns having Municipal Corporations in *England* and *Wales*	(17 *July.*)
LXXXII. AN ACT to amend the Law relating to Grand Juries in *Ireland*, so far as to empower the Grand Jury of the County of *Fermanagh* to re-construct the Baronial Subdivisions of the said County	(17 *July.*)
LXXXIII. AN ACT to compel Clerks of the Peace for Counties and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament	(17 *July.*)
LXXXIV. AN ACT to abolish the Punishment of Death in Cases of Forgery	(17 *July.*)
LXXXV. AN ACT to amend the Laws relating to Offences against the Person	(17 *July.*)
LXXXVI. AN ACT to amend the Laws relating to Burglary and Stealing in a Dwelling-house	(17 *July.*)
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LXXXVIII. AN ACT to amend certain Acts relating to the Crime of Piracy	(17 *July.*)
LXXXIX. AN ACT to amend the Laws relating to burning or destroying Buildings and Ships	(17 *July.*)
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SHOWING

Whether they relate to the WHOLE or to any PART of the UNITED KINGDOM;

VIZ.

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(S.) - - -	SCOTLAND.
(I.) - - -	IRELAND.
(E. & I.) - -	ENGLAND and IRELAND.
(G. B.) - -	GREAT BRITAIN.
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Arbitration of Disputes between Masters and Workmen, amending 5 Geo. IV. c. 96, respecting - - - - - - - - -	(G. B.)	67.
Army, annual Act for the Payment, &c. of - - - - - - -	(U. K.)	7.
——— enabling Her Majesty to grant the Rank of General Officers to Foreigners now bearing Her Majesty's Commission, and to permit the Enlistment of Foreigners under certain Restrictions -	(U. K.)	29.
——— continuing Military Commissions in force notwithstanding the Demise of the Crown - - - - - - - - -	(U. K.)	31.
Assessed Taxes, extending an exemption from, granted by 6 & 7 Gul. IV. c. 65, and to amend the Laws relating thereto - - - - -	(G. B.)	61.
Assizes, explaining and amending 7 Geo. IV. c. 63, for improving and rebuilding Shire Halls and other Buildings for holding - - -	(E.)	24.
Attornies' Clerks, annual Act for the Relief of, in certain Cases - -	(U. K.)	12.
Attornies, amending the several Acts for the Regulation of - - -	(E.)	56.

B.

Bank of Ireland, to postpone until 1st January 1839 the Repayment of certain Sums advanced by, for the Public Service - - - - -	(I.)	59.
Bankrupt, to appoint a Second Commissioner of, and to amend 6 & 7 Gul. IV. c. 14, amending the Laws relating to Bankrupts - -	(I.)	48
Beet Root, imposing certain Excise Duties on Sugar made from - -	(U. K.)	57.
Bills of Exchange, exempting certain, from the Operation of the Laws relating to Usury - - - - - - - - - - -	(U. K.)	80.

(*continued.*)

Cap.

Births, suspending for a limited Time the Operation of 6 & 7 Gul. IV. c. 86, for registering (E.) 1.

——— explaining and amending the Act 6 & 7 Gul. IV. c. 86, for registering (E.) 22.

Births of Children, to provide for the Costs of Prosecutions for concealing, by secret burying or otherwise disposing of their Dead Bodies (E.) 44.

Blasphemy, amending Act of 6 Geo. IV. c. 47, for restricting the Punishment of (S.) 5.

Boroughs and Towns having Municipal Corporations, providing for the levying of Rates in (E.) 81.

Buildings, amending the Laws relative to the burning or destroying of (E. & I.) 89.

Buildings and Lands, facilitating the Conveyance of, for the Purposes of the Acts 4 & 5 Gul. IV. c. 76, and 5 & 6 Gul. IV. c. 69 (E.) 50.

Burglary, amending the Laws relating to (E. & I.) 86.

C.

Carriages with less than Four Wheels, extending an Exemption granted by 6 & 7 Gul. IV. c. 65, from Assessed Taxes in respect of (G. B.) 61.

Cathedral and Collegiate Churches, continuing until 1st August 1838 the Acts 6 & 7 Gul. IV. c. 67 & 77, for suspending Appointments to certain Dignities and Offices in, &c. (E.) 71.

Central Criminal Court, to assimilate the Practice of the, to other Courts of Criminal Judicature with respect to Offenders liable to the Punishment of Death (E.) 77.

Charities (Commissioners of), continuing the Powers of, to 1st July 1837 (E.) 4.

Churches (new), prolonging for Ten Years Her Majesty's Commission for building (E.) 75.

See also Cathedral and Collegiate Churches.

Circuit Courts, for regulating the Establishment of, for the Trial of Small Debt Causes by the Sheriffs (S.) 41.

Civil Bill, amending the Laws for the Recovery of Small Debts by (I.) 43.

Clerks of the Peace and other Persons; to compel them to take the Custody of Documents directed to be deposited with them under the Standing Orders of either House of Parliament (G. B. & I.) 83.

Commissions (Military), and in the Royal Marines, continued in force notwithstanding the Demise of the Crown (U. K.) 31.

Common Law Courts (Superior), abolishing certain Offices in, and making Provision for a more effective and uniform Establishment of Officers in those Courts (E.) 30.

Commutation of Tithes, amending 6 & 7 Gul. IV. c. 71, for (E.) 69.

Companies (trading and other), for better enabling Her Majesty [by Letters Patent] to confer certain Powers and Immunities on (U. K.) 73.

Consolidated Fund, for carrying to, certain Monies paid into the Exchequer, and usually applied as Part of the annual Aids and Supplies (U. K.) 17.

Conveyance of Lands and Buildings, for facilitating, for the Purposes of the Acts 4 & 5 Gul. IV. c. 76, and 5 & 6 Gul. IV. c. 69 (E.) 50.

Coroners of the County of Durham, for the Regulation of (E.) 64.

Coroners' Inquests, providing for the Payment of the Expenses of holding (E.) 68.

Corporate Property, to restrain the Alienation of, in certain Towns (I.) 74.

Corporations (Municipal,) amending Act for the Regulation of (E.) 78.

——— providing for the levying of Rates in Boroughs and Towns having (E.) 81.

County; Interpretation of the word "County" occurring in Acts of Parliament relating to Scotland (S.) 39.

County Halls, explaining and amending 7 Geo. IV. c. 63, for improving and rebuilding (E.) 24.

Creditors in Scotland, continuing until 1st May 1838 the Act 54 Geo. III. c. 137, for rendering the Payment of, more equal and expeditious (S.) 40.

Criminal Court. *See* Central Criminal Court.

Crown. *See* Successor to the Crown.

D.

		Cap.
Death, assimilating the Practice of the Central Criminal Court to other Courts of Criminal Judicature with respect to Offenders liable to the Punishment of	(E.)	77.
——— Punishment of, abolished in Cases of Forgery	(U. K.)	84.
——— Punishment of, abolished in certain Cases	(E. & I.)	91.
Deaths, suspending for a limited time the Operation of 6 & 7 Gul. IV. c. 86, for registering	(E.)	1.
——— explaining and amending the Act 6 & 7 Gul. IV. c. 86, for registering	(E.)	22.
Debts (Small), for the more effectual Recovery of, in the Sheriff Courts, and for regulating the Establishment of Circuit Courts for the Trial of Small Debt Causes by the Sheriffs	(S.)	41.
——— amending Laws for the Recovery of, by Civil Bill	(I.)	43.
Dioceses. *See* Ecclesiastical Jurisdictions.		
Disputes between Masters and Workmen, amending 5 Geo. IV. c. 96, respecting the Arbitration of	(G. B.)	67.
Documents, compelling Clerks of the Peace and other Persons to take the Custody of, directed to be deposited with them under Standing Orders of either House of Parliament	(G. B. & I.)	83.
Dublin Metropolis Police, to make more effectual Provisions relating to	(I.)	25.
Durham County, for the Regulation of the Coroners of	(E.)	64.
Duties of Assessed Taxes. *See* Assessed Taxes.		
——— of Excise. *See* Excise.		
——— of Postage. *See* Post Office.		
——— on Sugar. *See* Sugar.		
Dwelling House, amending the Laws relating to Burglary and Stealing in a	(E. & I.)	86.

E.

East India Company; repealing the Prohibition of the Payment of the Salaries and Allowances of the Company's Officers during their Absence from India	(U. K.)	47.
——— authorizing the Commissioners for India Affairs and the Court of Directors to suspend the subsisting Enactments concerning the Fourfold System of Nomination of Candidates for the East India Company's College at Haileybury, &c.	(U. K.)	70.
——— imposing Rates of Packet Postage on East India Letters, &c.	(U. K.)	76.
Ecclesiastical Jurisdictions, for preventing the immediate Effects on, of the Measures in progress for the Alteration of Dioceses, &c.	(E.)	71.
Ely (Bishop of), explaining and amending 6 & 7 Gul. IV. c. 87, for extinguishing the Secular Jurisdiction of, in certain Liberties in the County of Cambridge	(E.	53.
Enlistment of Foreigners permitted under certain Restrictions	(U. K.)	29.
Exchequer, for carrying to the Consolidated Fund certain Monies paid into, and usually applied as Part of the annual Aids and Supplies	(U. K.)	17.
Exchequer Bills, raising £.11,000,000	(U. K.)	16.
——— raising £.13,623,300	(U. K.)	38.
——— authorizing a further Issue of, for Public Works and Fisheries and Employment of the Poor	(G.B. & I.)	51.
Exchequer (Court of), to render valid certain Acts done in, by the Lord Ordinary, and for the better Regulation thereof	(S.)	65.
Excise, amending certain Laws of, relating to the Duties on Malt made in the United Kingdom	(U. K.)	49.
——— imposing certain Duties of, on Sugar made from Beet Root	(U. K.)	57.

F.

Fees payable to Sheriffs upon the Execution of Civil Process, for better regulating the	(E.)	55.
Fermanagh, amending the Law relating to Grand Juries in Ireland, so far as to empower the Grand Jury of the County of, to reconstruct the Baronial Subdivisions thereof	(I.)	82.

(continued.)

		Cap.
Fisheries, authorizing a further Issue of Exchequer Bills for	(G.B. & I.)	51.
Foreigners bearing Her Majesty's Commission enabled to receive the Rank of General Officers, and for permitting the Enlistment of Foreigners under certain Restrictions	(U. K.)	29.
Forgery, abolishing Punishment of Death in Cases of	(U. K.)	84.
Franking. *See* Letters and Packets.		
G.		
Grand Juries, amending 6 & 7 Gul. IV. c. 116, for consolidating and amending the Laws relating to Presentments of Public Money by	(I.)	2.
Grand Juries, amending the Law relating to, so far as to empower the Grand Jury of the County of Fermanagh to reconstruct the Baronial Subdivisions of the said County	(I.)	82.
Grand Sessions, for explaining and amending 7 Geo. IV. c. 63, for improving and rebuilding Shire Halls and other Buildings for holding	(E.)	24.
H.		
Haileybury, authorizing the Suspension of the subsisting Enactments concerning the Fourfold System of Nomination of Candidates for the East India Company's College at, and for providing during such Suspension for the Examination of Candidates for the said College	(U. K.)	70.
Hereditary Revenues; discharging His Majesty's Manor and Demesne Lands at Newark, County Notts, from Costs of rebuilding and repairing Trent and Markham Bridges, and to charge same on other Hereditary Revenues	(E.)	15.
I.		
Indemnity Act, annual	(U. K.)	12.
Inquests (Coroners'), providing for the Payment of the Expenses of holding	(E.)	68.
Interpretation of the Word "Sheriff," "Sheriff Clerk," "Shire," "Sheriffdom," and "County," occurring in Acts of Parliament relating to Scotland	(S.)	39.
J.		
Judges' Lodgings, explaining and amending 7 Geo. IV. c. 63, to provide for the improving and rebuilding of	(E.)	24.
Jury, explaining and amending Two Acts relating to Trial by	(S.)	14.
Justice; continuing 9 Geo. IV. c. 83, to 31st December 1838, for the Administration of Justice in New South Wales and Van Diemen's Land	(U. K.)	42.
Justice of the Peace in and near the Metropolis, continuing until 1st July 1838, the Act 3 & 4 Gul. IV. c. 19, for the more effectual Administration of the Office of a	(E.)	37.
Justices of the Peace for Counties, Ridings or Divisions, enabled to divide their Courts of Quarter Sessions in certain Cases	(E.)	19.
K.		
THE KING;—His Majesty's Manor and Demesne Lands at Newark discharged from Costs of rebuilding Trent and Markham Bridges	(E.)	15.
———— transferring and vesting the Royal Military Canal, &c., in Kent and Sussex, and also the Rates and Tolls arising therefrom, in the principal Officers of His Majesty's Ordnance	(E.)	20.
———— for correcting mistaken References to His late Majesty in Acts of this Session of Parliament	(U. K.)	60.
L.		
Land Tax, cancelling Stock transferred to the Commissioners for the Reduction of the National Debt on account of the Redemption of, &c.	(U. K.)	17.
Lands and Buildings, facilitating the Conveyance of, for the Purposes of the Acts 4 & 5 Gul. IV. c. 76, and 5 & 6 Gul. IV. c. 69	(E.)	50.

		Cap.
Leasing-making, amending Act of 6 Geo. IV. c. 47, for restricting the Punishment of - - - - - - - - - - -	(S.)	5.
Letters and Packets (franking); regulating the sending and receiving of Letters and Packets by the Post free from Postage - - - - - *See also* Post Office.	(U. K.)	35.
Letters Patent. *See* Companies.		
Limitation of Actions and Suits relating to Real Property, amending 3 & 4 Gul. IV. c. 27, for - - - - - - - - - -	(E. & I.)	28.
London. *See* Central Criminal Court; Metropolis.		
Lords Justices, to provide for the Appointment of, in case of the next Successor to the Crown being out of the Realm at the Time of the Demise of Her Majesty - - - - - - - - - -	(U. K.)	72.

M.

Malt made in the United Kingdom, amending certain Excise Laws relating to the Duties on - - - - - - - - - -	(U. K.)	49.
Marine Forces while on Shore, annual Act for the Regulation of - -	(U. K.)	8.
——— for continuing Commissions in the Royal Marines in force, notwithstanding the Demise of the Crown - - - - - -	(U. K.)	31.
Markham Bridge. *See* Newark.		
Marriages, suspending for a limited Time the Operation of 6 & 7 Gul. IV. c. 85, for solemnizing, and of 6 & 7 Gul. IV. c. 86, for Registration of - - - - - - - - - -	(E.)	1.
——— explaining and amending the Act 6 & 7 Gul. IV. c. 85, for solemnizing, and the Act 6 & 7 Gul. IV. c. 89, for Registration of - - - - - - - - - -	(E.)	22.
Master of the Rolls, providing for the future Payment of the Salary of -	(E.)	46.
Masters and Workmen, amending 5 Geo. IV. c. 96, respecting the Arbitration of Disputes between - - - - - - - - -	(G. B.)	67.
Metropolis, Office of a Justice of the Peace in and near; continuing till 1st July 1838 the Act 3 & 4 Gul. IV. c. 19, for the more effectual Administration of the - - - - - - - - -	(E.)	38.
Military Canal. *See* Royal Military Canal.		
Militia, suspending the making of Lists and the Ballots and Enrolments for	(U. K.)	52.
——— annual Act for the Pay, Clothing, &c. of - - - - - -	(G. B. & I.)	63.
Millbank, amending the Acts for regulating the General Penitentiary at -	(G. B.)	13.
Mint (Royal), amending several Acts relating to - - - - - -	(U. K.)	9.
Monies (Public), to provide more effectual Means for making Treasurers of Counties and Counties of Cities account for - - - - -	(I.)	54.
Municipal Corporations, amending Act for the Regulation of - -	(E.)	78.
——— providing for the levying of Rates in Boroughs and Towns having	(E.)	81.
Mutiny Act, annual - - - - - - - - - - -	(U. K.)	7.

N.

National Debt (Commissioners for the Reduction of), for cancelling Stock transferred to, on account of Redemption of Land Tax - - -	(U. K.)	17.
Newark, County Notts, discharging his Majesty's Manor and Demesne Lands at, from Costs of rebuilding and repairing Trent and Markham Bridges, and to charge same on other Hereditary Revenues -	(E.)	15.
New South Wales, continuing [to 31st December 1838] Act 9 Geo. IV. c. 83, for the Administration of Justice in - - - - - -	(U. K.)	42.
Notices, to alter the Mode of giving, for the holding of Vestries, and of giving Notices on Sundays with respect to various Matters -	(E.)	45.

O.

Offences against the Person, amending the Laws relating to - - - -	(E. & I.)	85.
Offences against the Post Office, consolidating the Laws relative to, &c.	(U. K.)	36.
Offences punishable by Transportation for Life, amending the Laws relating to - - - - - - - - - - - - -	(U. K.)	90.
Offices, annual Indemnity Act for Persons neglecting to qualify for - -	(U. K.)	12.

(continued.)

		Cap.
Offices in Superior Courts of Common Law, abolishing certain, and making Provision for a more effective and uniform Establishment of Officers in those Courts	(E.)	30.
Ordnance (Officers of), transferring to, and vesting in them, the Royal Military Canal, &c. and the Rates and Tolls arising therefrom	(E.)	20.
Outlawry, to alter the Mode of making Proclamations in Cases of	(E.)	45.

P.

Packet Service. *See* Postmaster General.		
Packets. *See* Post Office.		
Person, amending the Laws relating to Offences against the	(E. & I.)	85.
——— Robbery and Stealing from the, amending the Laws relating to	(E. & I.)	87.
Penitentiary (General), at Millbank, amending the Acts for regulating	(G. B.)	13.
Pillory, abolishing the Punishment of	(E.)	23.
Piracy, amending certain Acts relating to the Crime of	(U. K.)	88.
Police in the District of Dublin Metropolis, to make more effectual Provisions relating to the	(I.)	25.
Poor Laws, to facilitate the Conveyance of Lands under	(E.)	50.
Poor Persons born in Scotland and Ireland, and chargeable to Parishes in England, altering, amending and continuing the Act 3 & 4 Gul. IV. c. 40, relating to the Removal of	(G.B.)	10.
Poor, authorizing a further Issue of Exchequer Bills for the Employment of the	(G. B. & I.)	51.
Postmaster General, transferring to the Commissioners of the Admiralty all Contracts, &c. entered into with the, in relation to the Packet Service	(U. K.)	3.
Post Office, repealing the several Laws relating to	(U. K.)	32.
——— for the Management of	(U. K.)	33.
——— for the Regulation of the Duties of Postage	(U. K.)	34.
——— for regulating the sending and receiving of Letters and Packets by the Post free from Postage	(U. K.)	35.
——— for consolidating the Laws relative to Offences against the Post Office of the United Kingdom, and for regulating the judicial Administration of the Post Office Laws, and for explaining certain Terms and Expressions used therein	(U. K.)	36.
——— to impose Rates of Packet Postage on East India Letters, and to amend certain Acts relating to the Post Office	(U. K.)	76.
Presentments of Public Money by Grand Juries, amending 6 & 7 Gul. IV. c. 116, for consolidating and amending the Laws relating to	(I.)	2.
Proclamations in Cases of Outlawry, to alter the Mode of making	(E.)	45.
Promissory Notes, exempting certain, from the Operation of the Laws relating to Usury	(U. K.)	80.
Prosecutions for concealing the Birth of Children by secret burying or otherwise disposing of their Dead Bodies, providing for the Costs of	(E.)	44.
Public Works, amending Acts for the Extension and Promotion of	(I.)	21.
——— authorizing a further Issue of Exchequer Bills for	(G. B. & I.)	51.

Q.

Quarter Sessions; empowering the Recorder or other Person presiding in Quarter Sessions in Corporate Cities or Towns, and Justices of the Peace for Counties, Ridings or Divisions, to divide their Courts in certain Cases	(E.)	19.
THE QUEEN;—authorizing Her Majesty to carry into immediate Execution, by Orders in Council, any Treaties, &c. made with Foreign Powers, for the Suppression of the Slave Trade	(U. K.)	62.
——— providing for the Appointment of Lords Justices in the Case of the next Successor to the Crown being out of the Realm at the Time of the Demise of Her Majesty	(U. K.)	72.
——— for better enabling Her Majesty [by Letters Patent] to confer certain Powers and Immunities on trading and other Companies	(U. K.)	73.

R.

		Cap.
Rates, providing for the levying of, in Boroughs and Towns having Municipal Corporations	(E.)	81.
Real Property, amending 3 & 4 Gul. IV. c. 27, for the Limitation of Actions relating to, and for simplifying the Remedies for trying the Rights thereto	(E. & I.)	28.
Recorder; empowering the Recorder or other Person presiding in Quarter Sessions in Corporate Cities and Towns, and Justices of the Peace for Counties, Ridings or Divisions, to divide their respective Courts in certain cases	(E.)	19.
References; correcting mistaken References to his late Majesty in Acts of this Session of Parliament	(U. K.)	60.
Recovery of Small Debts in the Sheriff Court	(S.)	41.
——— by Civil Bill, amending the Laws for	(I.)	43.
Registration of Births, Deaths and Marriages; suspending for a limited Time the Operation of 6 & 7 Gul. IV. c. 86, for	(E.)	1.
——— explaining and amending the Act 6 & 7 Gul. IV. c. 86, for	(E.)	22.
Removal of poor Persons born in Scotland and Ireland, altering, amending and continuing the Act 3 & 4 Gul. IV. c. 40, relating to the Removal of, &c.	(G. B.)	10.
Robbery and Stealing from the Person, amending the Laws relating to	(E. & I.)	87.
Rolls Estate, vesting the, in Her Majesty, and to provide for the future Payment of the Salary of the Master of the Rolls and the Expenses of the Rolls Chapel	(E.)	46.
Royal Military Canal, transferring and vesting the, and the Rates and Tolls arising therefrom, in the principal Officers of his Majesty's Ordnance	(E.)	20.

S.

Scotland, to interpret the words "Sheriff," "Sheriff Clerk," "Shire," "Sheriffdom," and "County," occurring in Acts of Parliament relating to	(S.)	39.
Sedition, amending Act of 6 Geo. IV. c. 47, for restricting the Punishment of	(S.)	5.
Sheriff Courts, for the more effectual Recovery of Small Debts in, and for regulating the Establishment of Circuit Courts for the Recovery of Small Debt Causes by the Sheriffs	(S.)	41.
Sheriffs, for better regulating the Fees payable to, on the execution of Civil Process	(E.)	55.
Ships, amending the Laws relating to burning and destroying	(E. & I.)	18.
Shire Halls, explaining and amending 7 Geo. IV. c. 63, for improving and rebuilding	(E.)	24.
Sinecure Rectories, continuing [till 1st August 1838] the Acts 6 & 7 Gul. IV. c. 67. and c. 77, for suspending Appointments to, &c.	(E.)	71.
Slave Trade, authorizing Her Majesty to carry into immediate execution, by Orders in Council, any Treaties, &c., made with any Foreign Power for the Suppression of	(U. K.)	62.
Small Debts. *See* Debts.		
Solicitors' Clerks, annual Act for the Relief of, in certain cases	(U. K.)	12.
Solicitors, amending the several Acts for the Regulation of	(E.)	56.
Standing Orders of either House of Parliament, compelling Clerks of the Peace and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under	(G. B. & I.)	83.
Stealing in a Dwelling House, amending the Laws relating to	(E. & I.)	86.
——— from the Person, amending the Laws relating to	(E. & I.)	87.
Successor to the Crown, providing for the Appointment of Lords Justices in case of the next, being out of the Realm at the Time of the Demise of Her Majesty	(U. K.)	72.

(*continued.*)

		Cap.
Sugar imported, annual Duties on	(U. K.)	27.
——— made from Beet Root, imposing certain Excise Duties on	(U. K.)	57.
Suits. *See* Actions and Suits.		
Sundays, to alter the mode of giving Notices on, with respect to various Matters	(E.)	45.
T.		
Taxes (Assessed), extending an Exemption from, granted by 6 & 7 Gul. IV. c. 65, and amending the Laws relating to	(G. B.)	61.
Tithe Compositions, reviving and continuing till 6th April 1838, 6 & 7 Gul. IV. c. 95, for suspending Proceedings for recovering Payment of the Money advanced under the Acts for establishing	(I.)	58.
Tithes, Commutation of, amending the Act 6 & 7 Gul. IV. c. 71, for the	(E.)	69.
Towns. *See* Boroughs.		
Transportation for Life, amending the Laws relative to Offences punishable by	(U. K.)	90.
Treasurers of Counties and Counties of Cities; providing more effectual means to make them account for Public Monies	(I.)	54.
Treaties. *See* Slave Trade.		
Trent Bridge. *See* Newark.		
Trial by Jury, explaining and amending Two Acts relating to	(S.)	14.
Turnpike Road Acts (expiring), continued till 1st June 1839	(G. B.)	18.
U.		
Usury, exempting certain Bills of Exchange and Promissory Notes from the Laws relating to	(U. K.)	80.
V.		
Van Diemen's Land, continuing [to 31st Dec. 1838] 9 Geo. IV. c. 83, for the Administration of Justice in	(U. K.)	42.
Vestries, to alter the mode of giving Notices for holding, and of giving Notices on Sundays with respect to various Matters	(E.)	45.
W.		
Wills, amending the Laws relating to	(E. & I.)	26.
Workmen, amending 5 Geo. IV. c. 96, respecting the Arbitration of Disputes between Masters and	(G. B.)	67.
Y.		
York (Archbishop of), explaining and amending 6 & 7 Gul. IV. c. 87, for extinguishing the Secular Jurisdiction of, in certain Liberties in the Counties of York and Nottingham	(E.)	53.

14 *February* 1837.—7 Will. IV.

A

B I L L

For extending an Act of the Fifth and Sixth Years of His present Majesty, for effecting greater Uniformity of Practice in the Government of the several Prisons in *England* and *Wales*, and for appointing Inspectors of Prisons in *Great Britain.*

Preamble.

WHEREAS by an Act passed in the fifth and sixth years of the reign of His present Majesty, intituled, "An Act for effecting greater Uniformity of Practice in the Government of the several Prisons in *England* and *Wales*, and for appointing Inspectors of Prisons in *Great Britain*," it is, among other things, enacted, that it shall be lawful for His Majesty, by an order in writing, to be notified in writing by one of His Majesty's Principal Secretaries of State, to direct that any persons in Prison within *England* and *Wales* under sentence of any Court, or of any competent authority, for any offence committed by them, shall be removed from the Prison in which they are confined to any other of His Majesty's Prisons or Penitentiaries within *England* and *Wales*, there to be imprisoned for and during their respective terms of imprisonment:

And whereas it is expedient that the said power should be further extended;

His Majesty may direct Prisoners to be removed from one Place of Confinement to another.

Be it therefore Enacted, by The KING's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT it shall be lawful for His Majesty, by an order in writing, to be notified in writing by one of His Majesty's Principal Secretaries of State, to direct that any male or female offenders in any Prison, or other place of confinement, within *Great Britain*, under sentence or order of any Court, or of any competent authority, for any offence committed by them, shall be removed from the Prison or other place of confinement in which they are confined, to any other Prison, Penitentiary or other place of confinement authorized by law as a place for the confinement of offenders, there to remain under the respective sentences or orders relating to them, or thence to be removed, by the like authority, to any other such place of confinement, there to remain under such respective sentences or orders, or until further order shall be given by the like authority for carrying such sentences or orders into effect according to law; all such offenders during their confinement in any such place of confinement as aforesaid to be subject to all powers, provisions and regulations for the confinement, employment and management of Convicts in the Prison, Penitentiary or other place of confinement in which they are so confined: Provided always, That where any offender shall be removed under any order purporting to be made by virtue of this Act, the sentence or order of the Court or other competent authority relating to such offender, shall still remain in full force, and shall not be affected or abridged by the provisions of any Act which, but for such order so purporting to be made as aforesaid, might affect or abridge the same.

Prisons Regulations.

A

BILL

For extending an Act of the Fifth and Sixth Years of His present Majesty, for effecting greater Uniformity of Practice in the Government of the several Prisons in *England* and *Wales*, and for appointing Inspectors of Prisons in *Great Britain*.

(Prepared and brought in by
Mr. Fox Maule and Mr. Baring.)

Ordered, by The House of Commons, *to be Printed,*
14 *February* 1837.

39.

13 *April* 1837.—7 WILL. IV.

A

BILL

To improve Prisons and Prison Discipline in Scotland.

[Note.—The Words and Clauses printed in *Italics* are proposed to be inserted in the Committee.]

Preamble: 1487. c. 101.

WHEREAS an Act of the Scottish Parliament was passed in the year One thousand four hundred and Eighty-seven, intituled, "Of the Keiping of Arreisted Trespassoures:"

1597. c. 277.

And whereas another Act of the Scottish Parliament was passed in the year One thousand five hundred and Ninety-seven, intituled, "Prison Houses suld be bigged within all Burrowes;" whereby it is enacted, that there should be a sufficient Prison made in every Royal Burgh within the realm, and supported out of the common good of the Burgh, or otherwise, at the expense of the Burgh, for the sure keeping of all transgressors, as well civil as criminal, who should be presented by the sheriff of the shire or stewarts and bailies of regality within which the Burghs are situate, as also all other persons presented to ward by the magistrate's authority within Burgh:

1617. c. 8.

And whereas another Act of the Scottish Parliament was passed in the year One thousand six hundred and Seventeen, intituled, "Anent the Justices for keeping of the King's Majesty's Peace, and their Constables:"

1696. c. 32.

And whereas another Act of the Scottish Parliament was passed in the year One thousand six hundred and Ninety-six, intituled, 'An Act anent the Aliment of Poor Prisoners:"

11 G. 1. c. 26.

And whereas an Act was passed in the eleventh year of the reign of His Majesty King GEORGE the Second, intituled, "An Act for more effectual disarming the Highlands, and for the better securing the peace and quiet of that part of the Kingdom;" whereby the assessment, collection and management of the Money termed the Rogue Money is authorized in the several Shires and Stewartries for defraying the charges of apprehending of Criminals, subsisting them in Prison until prosecution, and of prosecuting such Criminals for their several offences by due course of law:

20 G. 2. c. 43. And whereas an Act was passed in the twentieth year of the reign of his Majesty King George the Second, intituled, "An Act for taking away and abolishing the Heritable Jurisdictions in that part of Great Britain called Scotland," and for other purposes therein mentioned, whereby certain regulations were made relative to Prisons used by barons or heritors of lands having criminal jurisdiction not thereby taken away:

59 G. 3. c. 61. And whereas an Act was passed in the fifty-ninth year of the reign of his Majesty King George the Third, intituled, "An Act to enable Counties and Stewartries in Scotland to give aid to Royal Burghs situated therein, for the purpose of improving, enlarging or rebuilding their Gaols; or to improve, enlarge or rebuild Common Gaols of Counties or Stewartries, which are not the Gaols of Royal Burghs:"

6 G. 4. c. 62. And whereas an Act was passed in the sixth year of the reign of his late Majesty King George the Fourth, intituled, "An Act to amend an Act of the Scottish Parliament relative to the Aliment of Poor Prisoners:"

10 G. 4. c. 54. And whereas another Act was passed in the tenth year of the reign of his said late Majesty, intituled, "An Act for directing Reports to be made respecting Gaols in Scotland;" and, in conformity to the provisions of the said Act, certain reports have been made, which have been laid before Parliament:

And whereas various local Acts have also from time to time been passed, whereby and by virtue of the before-recited Act of the fifty-ninth year of the reign of his Majesty King George the Third, assessments have been authorized to be levied in various burghs, and also in various counties in aid of the burghs situated therein, for the building and management of Prisons, Bridewells, and other places of confinement, and the maintenance of Prisoners, and the expenses of obtaining such local Acts:

And whereas His Majesty, by his Royal Commission, dated the Fifteenth day of July One thousand eight hundred and Thirty-three, directed Letters Patent to be forthwith made and passed under the Seal appointed by the Treaty of Union to be kept and made use of in place of the Great Seal of Scotland, authorizing and appointing certain Commissioners to make a general inquiry into the state and condition of the several cities, burghs and towns of Scotland; and the said Commissioners have presented a Report, dated the Fifth day of August One thousand eight hundred and Thirty-five, wherein they report, amongst other things, as to the management of Gaols:

5 & 6 W. 4. c.

And whereas by an Act passed in the fifth and sixth years of the reign of His present Majesty, intituled, "An Act for effecting greater uniformity of practice in the Government of the several Prisons in England and Wales, and for appointing Inspectors of Prisons in Great Britain," One of His Majesty's Principal Secretaries of State is empowered to appoint Inspectors of Prisons in any part of the kingdom of Great Britain, who should make and transmit to One of His Majesty's Principal Secretaries of State yearly reports of the state of every Prison visited by him, copies of which Reports should be laid before Parliament:

And whereas by virtue of the said last-recited Act, an Inspector of Prisons has been appointed to act in Scotland, who presented a First Report dated the Third day of February One thousand eight hundred and Thirty-six, and a Second Report dated the Twenty-fifth day of February One thousand eight hundred and Thirty-seven, both of which Reports have been laid before Parliament:

And whereas the Prisons in Scotland are in general insecure and incommodious, and incapable of admitting of the adoption of a good system of prison discipline therein:

And whereas the burden of providing and maintaining Prisons, and of alimenting Prisoners therein has been imposed on Burghs by ancient laws and usages, in consideration of grants, privileges and immunities conferred on Burghs, but the funds thereof are now inadequate to bear the aforesaid burden, and many of the privileges and immunities anciently conferred on Burghs have ceased to be valuable; and it is inexpedient that the Burghs should continue liable to the burdens and obligations wherewith they are chargeable in respect of Prisons and Prisoners:

And whereas the aid given by Counties to Burghs for the aforesaid purposes is varying and uncertain, and in many cases cannot be obtained efficiently or without great difficulty and expense:

And whereas it is expedient, with a view to the adoption of efficient means for the punishment and repression of crime, and reformation of Criminals, that provision should be made for the erection and maintenance of more secure and convenient Prisons, and for the better management thereof, and the establishment of a well regulated system of Prison Discipline therein, by the appointment of a Board of Directors of Prisons acting on a uniform system, and invested with power to erect and maintain proper Prisons and Penitentiaries, and to regulate the discipline and management of all Prisons, Penitentiaries and other places of confinement of Prisoners in Scotland, and to raise the necessary funds by means of a General Assessment on Property within the several Counties and Burghs in proportion to the population thereof;

1.
All Laws repealed at variance with this Act.

BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the said recited Acts, and all laws, statutes and usages shall be and the same are hereby Repealed in so far as they are inconsistent or at variance with the provisions of this Act: Provided always, That the same shall be in force in all other respects whatsoever.

2.
Board of Directors of Prisons.

And be it Enacted, That the Persons following; namely, the Lord Justice General of Scotland, the Lord Justice Clerk, the Lord Advocate, the Solicitor General, and the Inspector of Prisons for the Northern District, all for the time being, and

together with *Two* other Persons, whom it shall be lawful for His Majesty, from and after the *passing of this Act*, by warrant under the Royal Sign Manual to appoint, shall be and be styled, "THE BOARD OF DIRECTORS OF PRISONS IN SCOTLAND;" and the said Board or any *Three* of them may sit from time to time as they deem expedient, as a Board of Directors for carrying this Act into execution; and it shall also be lawful for His Majesty, His heirs and successors, to supply any vacancy which may occur in the said Board.

3.
Directors to derive no Emolument.

And be it Enacted, That no Director shall derive any profit or emolument for the discharge of the duties of his office as a Member of the Board, nor shall be personally liable for any thing done by him in virtue of his office in the execution of this Act, or in the exercise of the powers herein contained.

And

4. Secretary to the Board.

And be it Enacted, That it shall be lawful for His Majesty, and His Heirs and Successors, to appoint a fit person to be Secretary to the said Board, and to supply any vacancy which may occur in the said office; and such Secretary shall receive an adequate salary of such amount as shall from time to time be regulated by the Lord High Commissioner and Commissioners of His Majesty's Treasury, or any *Three* or more of them, which shall be paid out of the funds raised by and under the management of the Board, by virtue of this Act; and any necessary expenses incurred by the Board, or Committees appointed by them, or by individual members of the said Board, in execution of this Act, shall also be paid out of the said funds; and an account of all such payments and expenses shall be annually laid before Parliament, in manner hereinafter provided; and the Secretary to the Board shall find sufficient security for his intromissions and management to the satisfaction of the Board, and shall be liable to be removed by His Majesty on the recommendation of the said Board.

5. Board may hold Property and Monies, and sue and be sued.

And be it Enacted, That the said Board may acquire and hold heritable and moveable property, monies, goods and effects, and that all titles, securities, investments, receipts and evidences taken for the same, may be taken to and in name of the said Board of Directors of Prisons in Scotland, without further description, or to and in name of any *Two* or more persons appointed Trustees by the said Board, or to and in name of the Secretary to the said Board for the time being, if they shall think fit, under such regulations as to the disposing or uplifting thereof, when taken in the name of Trustees, or of the Secretary, as the Board shall think fit to direct; and all such property, monies, goods and effects shall be deemed to be held for the use of the said Board for the time being, for the purposes of this Act, and shall pass and be transmitted to the said Board, and to such Trustees and Secretary for the time being as shall be duly appointed, without the necessity of any conveyance or assignation; and the said Board are also authorized, for all purposes of civil or criminal action or diligence, or reference to arbitration, to institute, defend or enter into any such civil or criminal proceedings as they may judge necessary, in the name of such Board or Secretary for the time being; and no such proceedings shall be discontinued or abate by any vacancy in any of the said offices, but may be proceeded in, to all intents and purposes, in the name of the Board, or of the Secretary commencing the same, or his successor.

6. Board to record their Proceedings, and make annual Reports thereof.

And be it Enacted, That the said Board shall make a record of their proceedings, in which shall be entered minutes of all meetings held by them, or any Committee appointed by them, and all regulations or orders made by the Board in virtue of the powers herein given, together with full and detailed accounts of their whole receipts and expenditure, and all other matters which the Board may judge proper; and the said Board shall, on or before the *Fifteenth* day of *February* in every year, make and transmit to One of His Majesty's Principal Secretaries of State, a full Report of their whole proceedings during the year ending on the *Thirty-first* day of *December* preceding; which Report shall, in particular, contain the regulations made by the Board for the management and discipline of Prisons, a statement of the Prisons built or altered, with suitable explanations of the design of such buildings or alterations, and an abstract of the whole receipts and expenditure, classifying the separate articles thereof, and showing from whence the receipts have been derived, and to what purposes the expenditure has been applied; and a copy of every such Report shall be laid before both Houses of Parliament, within *Fourteen* Days after such *Fifteenth* day of *February* if then assembled, or if Parliament shall not be then assembled, within *Fourteen* Days after the next meeting thereof.

7.
Board to make Rules, subject to approval of Secretary of State.

And be it Enacted, That the said Board shall be and they are hereby authorized and required, from time to time as they shall see occasion, to make and submit to One of His Majesty's Principal Secretaries of State, Rules for the management, good order and discipline of Prisons and Prisoners, and for carrying into effect the purposes of this Act; and it shall be lawful for such Secretary of State, if he shall think fit, to alter such Rules, or to make additional Rules thereto; and he shall grant a certificate that such Rules as submitted to him, or altered or added to, are proper to be observed and enforced; and upon such certificate being granted, such Rules shall be by the Secretary of State transmitted to the Board, and shall be effectual.

8.
Existing authorities relieved of all obligations in respect of Prisons and Prisoners.

And be it Enacted, That from and after the *First* day of *January One thousand eight hundred and Thirty-nine*, all obligations, duties and burdens relative to the building, maintenance and management of Prisons, and the aliment and discipline of Prisoners, presently or previously to the said date, imposed by any law, statute or usage on magistrates of burghs, commissioners of supply of counties, or commissioners or trustees appointed under the authority of Parliament, or on any other person or persons whatever, shall cease and determine: Provided always, That nothing herein contained shall invalidate or affect any thing which shall have been done previously to the said date; and provided also, That nothing herein contained shall be held to impair or affect any obligation presently or previously to the said date imposed by any law, statute or usage on His Majesty, and His heirs and successors relative to Prisons or Prisoners,

Proviso as to His Majesty.

Prisoners, and particularly relative to the removing and aliment of Prisoners.

9. Liability of Burghs for custody of Debtors abolished, and imposed on the Keeper of the Prison.

And be it Enacted, That from and after the said last-mentioned date, the obligations and liabilities of Magistrates of Burghs for the secure and close confinement of Prisoners for Civil Debts, shall be and the same are hereby abolished; and such obligations and liabilities shall from and after the said date be transferred to and upon the Governors or Keepers of the Prisons in which such Prisoners shall be confined; and it is hereby provided, that all Governors and Keepers of Prisons appointed by or acting under the Board, shall find due and sufficient security for their good conduct and fulfilment of their duties and obligations, to the satisfaction of the said Board, having regard to the extent of their several duties and obligations and the amount of their salaries.

10. Prison Fees abolished.

And be it Enacted, That from and after the said last-mentioned date, all Fees of every description payable by Civil or Criminal Prisoners to Keepers or Officers of Prisons, shall be and the same are hereby abolished.

11. Existing Prisons and Prison Funds vested in the Board.

And be it Enacted, That all existing Prisons, and all Prisons which shall exist on the said *First* day of *January One thousand eight hundred and Thirty-nine*, together with all the furniture and appurtenances of the same, shall from and after the said date be and the same are hereby vested in the Board of Directors of Prisons, subject to any liabilities wherewith the same shall be legally chargeable at the date of passing of this Act; and that the said property and effects, and all other heritable or moveable property, monies, goods and effects, vested or remaining at the said *First* day of *January One thousand eight hundred and Thirty-nine*, in the hands of Commissioners, Magistrates, Trustees or other persons, under any Act of Parliament, or under any law or usage, for the purpose of building, repairing or maintaining Prisons or alimenting Prisoners, in so far as such property, monies, goods or effects have been and are in their hands for the aforesaid purposes, shall, at the said last-mentioned date, be conveyed, assigned and paid over to the Board hereby appointed, or to persons duly authorized by them to that effect; and such Commissioners, Magistrates, Trustees or other persons, are hereby authorized and required to make, grant, subscribe and deliver all necessary dispositions, assignations, and conveyances of all such property, monies, goods and effects, in order that valid titles may be completed thereto by the said Board, or their Trustees or Secretary: Provided always, That in so far as such balances of monies paid or assigned in compliance with the directions of this Act, shall not be required to complete any building or other operation then in progress, or to pay or fulfil any existing debt or obligation, and in so far as the same or any part thereof may have been raised by assessment upon any County or Burgh, the same or such part thereof shall be imputed by the Board towards payment of the first proportions of assessment authorized by this Act to be allocated upon such County or Burgh, until the same or part thereof as aforesaid shall be exhausted.

12.
Board to provide Penitentiaries and District Prisons.

AND whereas it is desirable that a limited number of large and well regulated Prisons or Penitentiaries should be provided in suitable situations in Scotland, chiefly for the custody and good discipline of convicted Prisoners sentenced to long terms of imprisonment, and that all considerable Prisons, and particularly those situated in or near to Circuit Towns, should be adapted to a good system of discipline; BE it Enacted, That the Board shall be, and they are hereby authorized, as soon after the passing of this Act as they shall find convenient, to erect and provide Penitentiaries, which shall be under the superintendence of competent Governors, and shall be in such situations as the said Board may think suitable and convenient; and such Penitentiaries shall be so constructed and fitted up as to afford the best means for carrying into effect the purposes of this Act, and the Rules to be made in virtue hereof, and particularly for the proper classification and separation of Prisoners, and setting them to work, and training them in good and industrious habits; and the said Board shall also, as soon as conveniently may be, within or near to the city of Edinburgh, and also within each of the districts in which Circuit Courts are held by the supreme Judges for the trial of Criminals, in such situations as to the Board may appear most convenient, having reference as well to the state and condition of the existing Prisons, as to the local exigencies and circumstances of the district maintain, or if necessary provide, at least *One* suitable Prison, which shall be under the charge of a well qualified Keeper, and shall be secure and commodious, and so constructed and fitted up as to afford due means for carrying into effect the purposes of this Act.

13.
His Majesty and Council may direct public Buildings to be granted to the Board.

And be it Enacted, That the Commissioners for executing the office of Lord High Admiral of the United Kingdom for the time being, and the Officers of His Majesty's Ordnance for the time being, shall be and they are hereby authorized and required to grant and convey to the said Board of Directors of Prisons, such lands, houses, buildings and pertinents thereto belonging, presently vested in the said Commissioners or Officers, or either of them, as the said Commissioners or Officers, or either of them, shall be directed by His Majesty and Council to grant and convey to the said Board of Directors for the purposes of this Act.

And

14. Board to have the entire management of Prisons;

And be it Enacted, That from and after the said *First* day of *January One thousand eight hundred and Thirty-nine*, the said Board of Directors of Prisons shall possess and exercise the full power of administration and management of all Prisons in Scotland; and the said Board shall, by a writing under their hands, or the hands of any *Three* of them, and which shall be published in the Edinburgh Gazette, and in such other manner as they shall think proper, declare and intimate, from time to time, the names and situations of all Prisons under their administration and management, and the description of Prisoners to be received therein respectively; and all such Prisons shall be lawful Prisons for the description of Prisoners so declared and intimated to be received therein respectively; and the said Board shall be and they are hereby empowered from time to time, as they shall think proper, to discontinue and sell and dispose of any Prison under their administration and management, or take down and rebuild, or alter the same, and to erect and provide new and more commodious Prisons, which shall be better adapted for the system of discipline required to be observed by them, and in more suitable situations; and the Board may also, from time to time, as they shall think proper, alter and determine the description of Prisoners to be received in any Prison under their administration and management; and intimation shall be given by the Board, in manner aforesaid, of any such discontinuance of a former Prison, or establishment of a new one, and of the description of Prisoners to be received in any new Prison, or in any Prison in which the former description of Prisoners may be altered; and the said Board shall have power to appoint Governors and Keepers of Prisons, and also Chaplains, Medical Officers and Teachers thereto, where they shall judge proper, together with all other officers and servants required, and to assign to all such persons adequate remuneration; and the said Board shall further possess and exercise the full power of administration and management of the whole property, monies, goods and effects to be raised and vested in them, and shall hold, use and apply the same for the purposes, and in terms of this Act; and the said Board shall further possess and exercise the full power of regulating the confinement, treatment and diet of all Civil and Criminal Prisoners, and of classifying, separating and setting them to work, and taking all due means to train them in good and industrious habits: Provided always, That the aforesaid powers of the said Board in respect of the management of Prisons and Prison Funds and Prisoners, shall be at all times subject to the conditions and limitations contained in this Act and in the Rules to be made in virtue hereof; and provided further, That the Board shall not have power to set to work any Civil Prisoners or any untried Criminal Prisoners without their own consent.

Prison Funds;

and Prisoners.

15.
Aliment of Civil Prisoners to remain as under present Law.

And be it Enacted, That the liability of Creditors Incarcerators to provide aliment to poor Prisoners, and the law relative to the aliment of Civil Prisoners, shall not be altered or affected by any thing contained in this Act.

16.
Insane Criminal Prisoners.

And be it Enacted, That provision shall be made for the proper custody and treatment of Criminal Prisoners, who by reason of Insanity or Lunacy may not be brought to trial, or who may upon their trial be found to be Insane or Lunatic and be detained and subjected to confinement as such; and that it shall be lawful for the Board, if they shall think proper, instead of making use of a Prison or any portion thereof for the custody of such Prisoners, and in addition to the powers herein conferred, to contract and agree with the Directors or Managers of any Lunatic Asylum for the custody and maintenance of such Insane or Lunatic Prisoners, on such terms as may be agreed upon: Provided always, That all competent right of relief of the expenses incurred in the custody and maintenance of such Prisoners against their own estates or funds, or against their relations, or parish of their settlement, shall be and the same is hereby reserved.

17.
Removal of Prisoners.

And be it Enacted, That the Board may, in pursuance of general rules made as aforesaid, and also by orders issued by them from time to time as they shall think proper, direct the removal of all Civil or Criminal Prisoners from one Prison to any other Prison deemed more fit and convenient, such removal and the Prison to which it shall be made being always entered in the books of the Prison from which the removal shall take place; and all such rules and orders shall be valid and effectual: Provided always, That it shall not be competent to remove any Civil or untried Criminal Prisoner to any Prison which shall be beyond the district of the Circuit Court of the place of his imprisonment, or in case there shall be no Circuit Court for such place, to any Prison beyond the Counties of Edinburgh, Haddington and Linlithgow, and the Burghs situated therein, unless such removal beyond such district or Counties and Burghs shall be made by the special order of the Board for cause assigned, or with the consent of such Prisoner; and in either of these cases the order and cause thereof, or the consent of the Prisoner, shall be entered and attested in the books of the Prison from which the removal shall take place by the Keeper thereof; and provided also, That it shall be competent to any such Prisoner to apply by summary Petition to the Lord Ordinary on the bills, or to any Judge of the Court of Justiciary, who is hereby authorized, after intimation of such Petition to the Secretary of the said Board, to hear parties summarily, and upon just cause shown to order him to be replaced in the Prison from which he was removed, and such order shall be immediately carried into effect, and shall be final.

13

18. Place of Imprisonment.

And be it Enacted, That the Judges of the Courts of Session and Justiciary may commit Criminal Prisoners after trial to any Prison, and that Sheriffs may commit such Prisoners to any Prison within their several Circuit Court Districts, or where there shall be no Circuit, to any Prison within the counties of Edinburgh, Haddington or Linlithgow, and the Burghs situated therein, and that all other Judges and Magistrates shall commit such Prisoners to the nearest or most accessible Prison; and all Sheriffs and other Judges and Magistrates shall commit untried Criminal Prisoners to the nearest or most accessible Prison, although such Prison may not be within their ordinary jurisdiction; and all messengers at arms or other officers, in the execution of civil diligence shall take and commit Civil Prisoners to the nearest or most accessible Prison; and all warrants granted, and commitments made to any Prison in terms of this Act, shall receive effect, without indorsation by any Sheriff, or other inferior Judge or Magistrate, within whose ordinary jurisdiction such Prison may be situated.

19. Power of Judges to order peculiar treatment of Prisoners, and to punish Keepers for Malversation.

Provided always, and be it Enacted, That nothing contained in this Act, or in the Rules to be made in virtue hereof, shall be held to affect or interfere with the execution of any orders or directions which shall be contained in any sentence pronounced by Judges of the Court of Session or Justiciary, relative to any peculiar mode of confining, treating or alimenting convicted Criminal Prisoners by way of additional punishment; and provided also, That the said Judges shall have full power in cases of malversation of office by Keepers or other Officers of Prisons appearing in the course of judicial proceedings before them, either to inflict such summary punishment on such Keepers or Officers by fine, suspension or deprivation of office, as they shall think fit, or to report the circumstances to the Board: Provided, That notwithstanding the infliction of such punishment, all rights or claims of damages competent to persons injured shall remain entire.

20. Board to make Estimate of Sums required, and Estimate to be laid before House of Commons.

And be it Enacted, That on or before the *Fifteenth* day of *February* in the year *One thousand eight hundred and Thirty-eight*, and in every succeeding year, the Board shall make and transmit to One of His Majesty's Principal Secretaries of State, an Estimate of the sums which they will require in the execution of this Act during the year from the *First* day of *January* to the *Thirty-first* day of *December* (both inclusive) then next ensuing; and such Estimate shall set forth in a separate and distinct manner the purposes for which it shall be estimated that the sums therein contained shall be required; and the said Estimate shall not be acted upon, or apportioned in manner hereinafter provided, until the expiration of *One* Month after the same shall have been transmitted to His Majesty's Principal Secretary of State as aforesaid.

21.
Estimated Sums to be apportioned on Counties and Burghs according to Schedule of Proportions.

And be it Enacted, That the sums contained in the said Estimate, or such portion of the same as to the said Board shall seem proper, shall be annually apportioned by the said Board, under the limitation hereinafter contained, among and upon the several Counties and Burghs set forth in the Schedule (A.) to this Act annexed, according to the Scale of Proportions of each Hundred Pounds of the gross amount of such estimated sums set forth in the said Schedule as applicable to each County and Burgh; and the Board shall give notice of such allocation on Counties to the Convener of the Commissioners of Supply thereof, and on Burghs to the Chief Magistrate or administrator of the affairs thereof: Provided always, That notice shall be held to be duly given by letter sent by the General Post, properly addressed, containing such notice.

22.
Board to have power to alter Schedule of Proportions.

AND whereas the scale of Proportions in the said Schedule is framed according to the estimated population of each county and burgh, and such estimate may be erroneous, or the population may be hereafter altered; BE it Enacted, That the Board shall be and they are hereby empowered, from time to time, and particularly after each general census of the population of the Kingdom, to alter the said Schedule of Proportions as may be just, in case the same shall appear to them to be materially erroneous.

23.
Assessment authorized on Counties.

AND whereas by virtue of the before-recited Act of the eleventh year of the reign of his Majesty King George the First, the Money termed " The Rogue Money " is assessed and levied in counties for defraying the charges of apprehending of Criminals, subsisting them in Prison until prosecution, and of prosecuting such criminals for their several offences by due course of law; And whereas by the operation of this Act the counties will be relieved of part of the said Assessment, and likewise of various further expenses and Assessments which have from time to time been imposed thereon, in implement of the aforesaid obligation, and in giving aid to burghs towards building and maintaining Prisons, Bridewells and other places for confinement of Prisoners: And whereas it is just and expedient that counties should bear a due share of the general expenses incurred in respect of Prisons and Prisoners; BE it Enacted, That the proportion of the gross amount of the foresaid estimated sums which shall be annually apportioned by the Board on the several counties as aforesaid, shall be assessed by or under the authority of the Commissioners of Supply of each county, in like manner and along with the Rogue Money; and the said Commissioners in the several counties are hereby authorized and required, at their first meeting, which shall be held after notice as aforesaid by the Board to the Convener of such county, to lay on and collect or direct the laying on and collection of the sum apportioned on each respective county, together with such further sum as may be necessary to cover expenses and risk of assessment,

ment, collection and remittance, and any arrears of preceding years, in like manner and with the same powers as the Rogue Money is or may be laid on and collected; and the said Commissioners and their Convener and Collector in the several counties shall remit the whole sum apportioned, at their risk and free of all expenses, to the Board within Six Months after notice to the Convener as aforesaid, with legal interest thereafter of the same or any balance thereof until paid.

24.
Assessment authorized on Burghs.

AND whereas by the ancient laws and usages of Scotland, Burghs are obliged to provide and maintain sufficient Prisons and to aliment Prisoners out of the common good or otherwise at the expense of the Burghs, and the inhabitants of various Burghs are further burdened with Assessments for the maintenance of Prisons, Bridewells and other places for confinement of Prisoners: And whereas by the operation of this Act Burghs and the inhabitants thereof will be relieved of the aforesaid obligations and burdens; BE it Enacted, That the proportion of the gross amount of the foresaid estimated sums which shall be annually apportioned by the Board on the several Burghs as aforesaid, shall be assessed by or under the authority of the Magistrates of each Burgh on the annual value of property within the same; and the said Magistrates of the several Burghs are hereby authorized and required, as soon as conveniently may be, after notice as aforesaid by the Board to the Chief Magistrate, to lay on and collect or direct the laying on and collection of the sum apportioned on each respective Burgh, with such further sum as may be necessary to cover expenses and risk of assessment, collection and remittance, and any arrears of preceding years, in like manner and with the same powers and right of action and diligence for the recovery of the same as may be competent with respect to any other municipal or police or general assessment with which the said Magistrates may deem it most expedient that the sum apportioned as aforesaid should be laid on and collected: Provided always, That in case the mode of assessing and collecting such municipal or police or other general assessment, shall not enable the said Magistrates duly to carry into effect the purposes of this Act, with respect to any portion of their several Burghs, it shall be lawful to them to make use of the like powers of assessment, collection and recovery, given as aforesaid, in laying on, collecting and recovering assessment from any portion of their several Burghs which might otherwise be unduly exempted therefrom; And the said Magistrates shall, at their risk, and free from all expenses, remit the whole sum apportioned to the Board, within Six Months after notice to the Chief Magistrate as aforesaid, with legal interest thereafter of the same, or any balance thereof, until paid.

25.
Mode of collection in Burghs where no other general Assessment.

And be it Enacted, That in any Burgh in which there may be no municipal or police or other general assessment, or in which it may appear to the Magistrates to be inexpedient to levy the assessment hereby authorized, along with any other existing assessment, the sums *annually apportioned in such Burgh as aforesaid shall be assessed and collected by or under the authority of the Magistrates thereof, on the annual value of property within the same, in such manner as they shall think just; and for this purpose the Magistrates of any such Burgh are hereby authorized and required to appoint assessors and collectors, and to lay on and collect, or direct the laying on and collection of the sum apportioned on such Burgh, with such further sum as may be necessary to cover expenses and risk of assessment, collection and remittance, and any arrears of preceding years, and to remit the whole sum apportioned to the Board within* Six *Months after notice to the Chief Magistrate as aforesaid, with legal interest thereafter of the same, or any balance thereof, until paid.*

26.
Common Good and Revenues of Burghs may be applied in payment of Assessment.

Provided always, and be it further Enacted, That in any Burgh in which the free yearly proceeds of the common good, property and revenues of any Burgh may be judged by the Magistrates thereof to be sufficient to pay the sums, or any part thereof, annually apportioned on such Burgh as aforesaid, after defraying interest of debts due by such Burgh, and the ordinary municipal and police charges and expenses, it shall be competent to the Magistrates thereof to pay the sum so apportioned on such Burgh, or any part thereof which the Magistrates may think proper, out of the said common good, property or revenues.

27.
Assessment within Burgh to be divided between Landlord and Tenant.

And be it Enacted, That the assessment authorized by this Act to be assessed and collected within Burghs shall be payable by the tenant or occupant of property assessed; but such tenant or occupant by whom such assessment shall be paid, shall be entitled to deduct one-half *of such assessment from the rent payable to the proprietor or person by whom such property was let, who shall be liable for such assessment in case of the removal or default of the tenant or occupant thereof; and such assessment shall be payable at such terms as the Magistrates may appoint: Provided, That* one-half *of such assessment may be levied directly from the proprietor of property assessed within the Burgh; and provided also, That the Magistrates of any Burgh may remit, on account of poverty, the whole or any part of the assessment authorized by this Act to be levied from any tenant or occupant of property within Burgh.*

May be remitted on account of poverty.

28.
Assessment limited to 30,000 *l.*, and Treasury may make advances.

And be it Enacted, That it shall not be lawful for the said Board to raise in any one year within Scotland, by the assessment authorized by this Act, more than Thirty thousand *Pounds: Provided always, and be it Enacted, That it shall be lawful for the Lord High Treasurer and Commissioners of His Majesty's Treasury, or any* Three *or more of them, from time to time to advance to the Board on the security of the property and assessments, vested in them, and to be raised by virtue of this Act, which security the said Board are hereby authorized to give, such sums as to the said Commissioners may seem proper, which shall be repaid by the Board to the Commissioners, with such interest as may be agreed upon.*

29. Monies to be paid to the Board, and deposited in Bank.

And be it Enacted, That all sums of money payable to the Board shall be paid or remitted to them, or on their account, in such manner as they shall direct, and that all sums of Money paid to or on account of the Board shall, in so far as not required to meet immediate demands, be without delay deposited in one of the chartered banks in Scotland, in such manner and under such regulations as to the mode in which such account may be operated upon, as the Board shall direct.

30. Visitation and inspection of Prisons.

And be it Enacted, That it shall be lawful for His Majesty's Principal Secretaries of State, or any persons appointed by them or any of them, His Majesty's Lord Lieutenants of the several counties, the Members of His Majesty's Privy Council, the Judges of the Court of Session, and the Members of the said Board of Directors of Prisons, and also for all Sheriffs, Chief Magistrates of Burghs, Conveners of Counties, and for Committees of not more than five of the Magistrates of Burghs, and Committees of not more than five of the Justices of the Peace, all within their several Counties and Burghs, and also for all persons to whom the Board may grant such permission, to visit and inspect the state and condition of the several Prisons, and discipline of Prisoners therein, and from time to time, as they shall see cause, to report their observations to the Board, who shall give immediate and attentive consideration thereto; and copies of the Annual Reports of the proceedings of the Board, required by this Act to be laid before Parliament, shall be transmitted by the Board to all the aforesaid persons who may desire the same, as soon as conveniently may be, after the preparation and transmission thereof to the Secretary of State.

31. Board to receive and send Letters free of Postage.

And be it Enacted, That the said Board may receive and send by the General Post from and to places within the United Kingdom, all letters and packets relating solely and exclusively to the execution of this Act, free from the duty of Postage, under such regulations as the Lords Commissioners of the Treasury, or any *Three* or more of them, shall think fit to direct.

32. Boundaries of Burghs.

And be it Enacted, That the Limits and Boundaries of the Burghs in the said Schedule (A.) shall, for the purposes of this Act, be taken and held to be according to the description and specification of such limits and boundaries determined by an Act passed in the second and third years of the reign of His present Majesty, intituled, "An Act to amend the Representation of the People in Scotland."

33. Property assessed in Burghs to be exempted from Assessment in Counties.

And be it Enacted, That where property situated within the boundaries of any Burgh contained in the said Schedule shall be assessed under the authority of this Act, for a proportion of the assessment allocated upon such Burgh, it shall not be competent to assess upon such property any proportion of the assess ment allocated upon the county in which such property shall be situated.

34. Corporate bodies, heirs of entail and others, may convey property to the Board.

And be it Enacted, That it shall be lawful for any body politic, corporate or collegiate, heir of entail, tutor, trustee or any other person, although under any legal disability or incapacity, who shall be vested and seised in, or possessed of any lands, houses or heritages which the said Board may desire to purchase or acquire for the purposes of this Act, to sell, dispose and convey the same to the said Board, for such fair and adequate price as shall be agreed upon; and all such conveyances, and the titles to be made up thereupon in favour of the Board, or their Trustees or Secretary, shall be in common form, and shall be valid and effectual; and all such bodies politic, heirs of entail and other persons so conveying, are hereby indemnified for or in respect of such conveyance, which they or any of them shall make in pursuance of this Act.

35. Application of the price.

And be it Enacted, That if any price agreed to be paid by the said Board for any such lands, houses or heritages, to or on behalf of any corporate body, heir of entail, pupil or other person under disability or incapacity, shall exceed the sum of *Twenty* Pounds, the same shall be paid into one of the chartered banks in Scotland, to an account in the names of *Two* persons, one to be named by the said Board and the other by the persons making such conveyance; and such price shall be applied under the direction of the Court of Session, obtained upon a petition presented in a summary way to the Court by the said *Two* persons, in the purchase of the land-tax, or towards the discharge of debt or other incumbrance, or in the purchase of lands, houses or heritages, or in such other manner, being to the same or the like uses and purposes as those upon which the property so conveyed stood settled or invested, as the said Court shall direct; and if any price agreed to be paid as aforesaid shall be less than *Twenty* Pounds, the same shall be paid to the person or persons making such conveyance: Provided always, That the said Board shall not be responsible for the application of any such price paid by them in terms of this Act.

36. Disputes aris- as to Assessment, to be summarily settled by the Sheriff, in case no other mode.

And be it Enacted, That any dispute which may arise in assessing or collecting the assessments authorized by this Act, between the Commissioners of Supply of Counties, or the Magistrates of Burghs, or the assessors, collectors or others acting under them on the one part, and any person aggrieved on the other part, for the settlement of which dispute no provision shall be made under the authority of this Act, and in case it shall not be competent to raise and determine the same in the Sheriff's Small Debt Court, shall be determined in a summary way by any Sheriff of the Sheriffdom in which such dispute shall arise, who shall, on a written Petition being presented to him by either of the aforesaid parties, appoint them to appear before him, when he shall hear them, investigate the matter in dispute in such way as he may think proper, and decide the same summarily, and such decision shall be final, and shall not be liable to suspension, advocation or reduction.

37. Interpretation of words.

And be it Enacted, That the words and expressions mentioned in this Act shall, in the construction thereof, be interpreted as follows, except where the nature of the provision or the context of the Act shall be repugnant to such construction; that is to say, the word "Prison" shall extend to and include every Gaol, Bridewell, House of Correction, Penitentiary, Lock-up House, or other house or place in which persons may be confined as Civil or Criminal Prisoners, having regard in each case to the nature of the Prison as declared and intimated by the Board, and to the description of Prisoners in question; "County" shall include and apply to a County exclusive of the Burghs situated therein; "Burgh" shall include and apply to any City, Burgh or Town contained in Schedule (A.) to this Act annexed; "Magistrates of Burghs" shall include the Lord Provost, or Provost or Chief Magistrate, and Magistrates and Council of Burghs; "Sheriff" shall include Steward, and Sheriff Substitute, and Steward Substitute; "Property," in Counties, shall extend to and include all descriptions of property valued in the cess or valuation books of counties; "Property," in Burghs, shall extend to and include dwelling-houses, shops, warehouses, manufactories, cellars, lands, gardens, yards, and all buildings and pertinents thereof; "Criminal Prisoner" shall include all persons committed to prison on any criminal charge, and all persons sentenced or ordered by any Court of Justice to be imprisoned or confined, either as a punishment for delinquency, or for the public security, or until or instead of payment of a fine or penalty payable to the public prosecutor or for the public interest; "Civil Prisoner" shall include all persons imprisoned for civil debt, or until or instead of payment of a fine or penalty to a private prosecutor or informer; "Person" shall extend to a body politic, corporate or collegiate; and every word importing the singular shall be applicable to several persons or things, as well as to one person or thing, and the plural shall be applicable to one person or thing as well as to several persons or things; and every word importing the masculine gender only, shall be applicable to females as well as to males.

38. Act may be altered, &c.

And be it Enacted, That this Act may be altered, amended or repealed by any Act or Acts to be passed during the present Session of Parliament.

SCHEDULE (A.)

To which the foregoing ACT refers.

COUNTIES AND TOWNS situated therein.		POPULATION:		Scale of Proportions of each £. 100 assessed.			Maximum of Assessment.		
		Towns.	Counties.	£.	s.	d.	£.	s.	d.
Aberdeenshire -	Aberdeen - -	58,019	- -	2	9	1	736	5	–
	Peterhead - -	5,112	- -	–	4	4	65	–	–
	Inverury - - -	994	- -	–	–	10	12	10	–
	Kintore - - -	402	- -	–	–	4	5	–	–
	Remainder of County	113,124	- -	4	15	7	1,433	15	–
			177,651	7	10	2	2,352	10	–
Argyleshire -	Campbelltown - -	4,869	- -	–	4	2	62	10	–
	Inverary - - -	1,117	- -	–	–	11	13	15	–
	Oban - - -	1,480	- -	–	1	3	18	15	–
	Remainder of County	93,959	- -	3	19	5	1,191	5	–
			101,425	4	5	9	1,286	5	–
Ayrshire - -	Ayr - - -	7,606	- -	–	6	5	96	5	–
	Irvine - - -	5,200	- -	–	4	5	66	5	–
	Kilmarnock - -	18,093	- -	–	15	3	228	15	–
	Remainder of County	114,156	- -	4	16	6	1,447	10	–
			145,055	6	2	7	1,838	15	–
Banffshire - -	Banff - - -	2,935	- -	–	2	6	37	10	–
	Cullen - - -	1,593	- -	–	1	4	20	–	–
	Remainder of County	44,076	- -	1	17	3	558	15	–
			48,604	2	1	1	616	5	–
Berwickshire -	Lauder - - -	1,075	- -	–	–	11	13	15	–
	Remainder of County	32,973	- -	1	7	10	417	10	–
			34,048	1	8	9	431	5	–
Bute - - -	Rothsay - - -	4,817	- -	–	4	1	61	5	–
	Remainder of County	9,334	- -	–	7	11	118	15	–
			14,151	–	12	–	180	–	–
Caithness - -	Wick - - -	9,850	- -	–	8	4	125	–	–
	Remainder of County	24,679	- -	1	–	10	312	10	–
			34,529	1	9	2	437	10	–
Clackmannan -	- - - - -	- -	14,729	–	12	5	186	5	–

COUNTIES AND TOWNS situated therein.		Population		Proportion of Assessment for each £. 100 assessed.			Maximum of Assessment.		
		Towns.	Counties.	£.	s.	d.	£.	s.	d.
Dumbartonshire -	Dumbarton - -	3,623	- -	–	3	1	46	5	–
	Remainder of County	29,588	- -	1	5	–	375	–	–
			33,211	1	8	1	421	5	–
Dumfriesshire -	Annan - - -	5,033	- -	–	4	3	63	15	–
	Dumfries - -	11,606	- -	–	9	10	147	10	–
	Lochmaben - -	2,795	- -	–	2	4	35	–	–
	Sanquhar - -	1,527	- -	–	1	3	18	15	–
	Remainder of County	52,809	- -	2	4	8	670	–	–
			73,770	3	2	4	935	–	–
Edinburghshire -	Edinburgh - -	136,294	- -	5	15	2	1,727	10	–
	Leith - - -	25,855	- -	1	1	10	327	10	–
	Musselburgh - -	8,961	- -	–	7	7	113	15	–
	Portobello - -	3,270	- -	–	2	9	41	5	–
	Remainder of County	45,312	- -	1	18	4	575	–	–
			219,592	9	5	8	2,785	–	–
Elginshire - -	Elgin - - -	4,493	- -	–	3	9	56	5	–
	Forres - - -	3,424	- -	–	2	11	43	15	–
	Remainder of County	26,314	- -	1	2	3	333	15	–
			34,231	1	8	11	433	15	–
Fifeshire - -	Anstruther, East -	1,007	- -	–	–	10	12	10	–
	Anstruther, West -	430	- -	–	–	4	5	–	–
	Auchtermuchty -	3,225	- -	–	2	9	41	5	–
	Burntisland - -	2,366	- -	–	2	–	30	–	–
	Crail - - -	1,824	- -	–	1	7	23	15	–
	Cupar - - -	6,473	- -	–	5	6	82	10	–
	Dunfermline - -	17,068	- -	–	14	5	216	5	–
	Dysart - - -	7,104	- -	–	6	–	90	–	–
	Earlsferry - -	538	- -	–	–	6	7	10	–
	Falkland - - -	2,658	- -	–	2	3	33	15	–
	Inverkeithing - -	3,189	- -	–	2	8	40	–	–
	Kilrenny - - -	1,705	- -	–	1	5	21	5	–
	Kinghorn - -	2,579	- -	–	2	2	32	10	–
	Kirkaldy - - -	5,034	- -	–	4	3	63	15	–
	Newburgh - -	2,642	- -	–	2	3	33	15	–
	Pittenween - -	1,317	- -	–	1	1	16	5	–
	St. Andrew's - -	5,621	- -	–	4	9	71	5	–
	Remainder of County	64,059	- -	2	14	2	812	10	–
			128,839	5	8	11	1,633	15	–
Forfarshire -	Aberbrothwick -	6,660	- -	–	5	7	83	15	–
	Brechin - - -	6,508	- -	–	5	6	82	10	–
	Dundee - - -	45,355	- -	1	18	4	575	–	–
	Forfar - - -	7,949	- -	–	6	9	101	5	–
	Montrose - -	12,055	- -	–	10	2	152	10	–
	Remainder of County	61,079	- -	2	11	8	775	–	–
			139,606	5	18	–	1,770	–	–

COUNTIES AND TOWNS situated therein.		POPULATION: Towns.	POPULATION: Counties.	Scale of Proportions of each £.100 assessed. £.	s.	d.	Maximum of Assessment. £.	s.	d.
Haddingtonshire	Dunbar	4,735	- -	-	4	-	60	-	-
	Haddington	5,883	- -	-	5	-	75	-	-
	North Berwick	1,824	- -	-	1	7	23	15	-
	Remainder of County	23,703	- -	1	-	-	300	-	-
			36,145	1	10	7	458	15	-
Inverness-shire	Inverness	14,324	- -	-	12	1	181	5	-
	Remainder of County	80,473	- -	3	8	1	1,021	5	-
			94,797	4	-	2	1,202	10	-
Kincardineshire	Inverbervie	1,137	- -	-	-	11	13	15	-
	Remainder of County	30,294	- -	1	5	8	385	-	-
			31,431	1	6	7	398	15	-
Kinross-shire	- - - -	- -	9,072	-	7	8	115	-	-
Kircudbrightshire	Kircudbright	2,690	- -	-	2	3	33	15	-
	New Galloway	2,389	- -	-	2	-	30	-	-
	Remainder of County	35,511	- -	1	12	1	451	5	-
			40,590	1	14	4	515	-	-
Lanarkshire	Airdrie	6,594	- -	-	5	7	83	15	-
	Glasgow	202,426	- -	8	11	2	2,567	10	-
	Hamilton	9,513	- -	-	8	-	120	-	-
	Lanark	4,266	- -	-	3	7	53	15	-
	Rutherglen	4,741	- -	-	4	-	60	-	-
	Remainder of County	89,279	- -	3	15	6	1,132	10	-
			316,819	13	7	10	4,017	10	-
Linlithgowshire	Linlithgow	3,187	- -	-	2	8	40	-	-
	Queensferry	684	- -	-	-	7	8	15	-
	Remainder of County	19,420	- -	-	16	5	246	5	-
			23,291	-	19	8	295	-	-
Nairnshire	Nairn	3,266	- -	-	2	9	41	5	-
	Remainder of County	6,088	- -	-	5	2	77	10	-
			9,354	-	7	11	118	15	-
Orkney & Shetland	Kirkwall	3,065	- -	-	2	7	38	15	-
	Remainder of County	55,174	- -	2	6	8	700	-	-
			58,239	2	9	3	738	15	-
Peeblesshire	Peebles	2,750	- -	-	2	4	35	-	-
	Remainder of County	7,878	- -	-	6	7	98	15	-
			10,578	-	8	11	133	15	-

COUNTIES AND TOWNS situated therein.		POPULATION :		Scale of Proportions of each £. 100 assessed.			Maximum of Assessment.		
		Towns.	Counties.						
				£.	s.	d.	£.	s.	d.
Perthshire - -	Culross - - -	1,488	- -	–	1	3	18	15	–
	Perth - - -	20,016	- -	–	16	11	253	15	–
	Remainder of County	121,390	- -	5	2	8	1,540	–	–
			142,894	6	–	10	1,812	10	–
Renfrewshire -	Greenock - -	27,571	- -	1	3	4	350	–	–
	Paisley - - -	31,460	- -	1	6	7	398	15	–
	Port Glasgow - -	5,192	- -	–	4	5	66	5	–
	Renfrew - - -	2,002	- -	–	1	8	25	–	–
	Remainder of County	67,218	- -	2	16	10	852	10	–
			133,443	5	12	10	1,692	10	–
Ross and Cromarty	Cromarty - -	2,215	- -	–	1	10	27	10	–
	Dingwall - -	2,124	- -	–	1	10	27	10	–
	Fortrose - - -	2,916	- -	–	2	6	37	10	–
	Tain - - -	3,078	- -	–	2	7	38	15	–
	Remainder of County	64,487	- -	2	14	6	817	10	–
			74,820	3	3	3	948	15	–
Roxburghshire -	Jedburgh - -	3,617	- -	–	3	1	46	5	–
	Remainder of County	40,046	- -	1	13	10	507	10	–
			43,663	1	16	11	553	15	–
Selkirkshire -	Selkirk - - -	1,880	- -	–	1	7	23	15	–
	Remainder of County	4,953	- -	–	4	2	62	10	–
			6,883	–	5	9	86	5	–
Stirlingshire -	Falkirk - - -	12,743	- -	–	10	9	161	5	–
	Stirling - - -	8,340	- -	–	7	1	106	5	–
	Remainder of County	51,538	- -	2	3	7	653	15	–
			72,621	3	1	5	921	5	–
Sutherlandshire -	Dornock - - -	504	- -	–	–	5	6	5	–
	Remainder of County	25,014	- -	1	1	2	317	10	–
			25,518	1	1	7	323	15	–
Wigtownshire -	Stranraer - -	3,329	- -	–	2	10	42	10	–
	Whithorn - -	2,415	- -	–	2	1	31	5	–
	Wigtown - -	2,337	- -	–	2	–	30	–	–
	Remainder of County	28,177	- -	1	3	9	356	5	–
			36,258	1	10	8	460	–	–
		TOTAL - -	2,365,807	100	–	–	30,000	–	–

Prisons (Scotland.)

A

BILL

To improve Prisons and Prison Discipline
in Scotland.

(Prepared and brought in by
Mr. Fox Maule, the Lord Advocate,
and Lord John Russell.)

Ordered, by The House of Commons, *to be Printed,*
13 *April* 1837.

197.

25

A

B I L L

[AS AMENDED BY THE COMMITTEE]

To improve Prisons and Prison Discipline in *Scotland.*

[N. B.—*The Clauses* (A.) (B.) (C.) (D.) (E.) *were added by the Committee.*]

WHEREAS an Act of the *Scottish* Parliament was passed in the year One thousand four hundred and Eighty-seven, intituled, "Of the Keiping of Arreisted Trespassoures :" Preamble: 1487. c. 101.

And whereas another Act of the *Scottish* Parliament was passed in the year One thousand five hundred and Ninety-seven, intituled, "Prison Houses suld be bigged within all Burrowes ;" whereby it is statute and ordained, that there should be a sufficient Prison made in every Royal Burgh within the realm, and supported out of the common good of the Burgh, or otherwise, at the expense of the Burgh, for the sure keeping of all transgressors, as well civil as criminal, who should be presented by the sheriff of the shire or stewarts and bailies of regality within which the Burghs are situate, as also all other persons presented to ward by the magistrate's authority within Burgh : 1597. c. 277.

And whereas another Act of the *Scottish* Parliament was passed in the year One thousand six hundred and Seventeen, intituled, "Anent the Justices for keeping of the King's Majesty's Peace, and their Constables :" 1617. c. 8.

And whereas another Act of the *Scottish* Parliament was passed in the year One thousand six hundred and Ninety-six, intituled, "An Act anent the Aliment of Poor Prisoners :" 1696. c. 32.

11 G. 1. c. 26. And whereas an Act was passed in the eleventh year of the reign of His Majesty King GEORGE the Second, intituled, "An Act for more effectual disarming the Highlands, and for the better securing the peace and quiet of that part of the Kingdom;" whereby the assessment, collection and management of the Money termed the Rogue Money is authorized in the several Shires and Stewartries for defraying the charges of apprehending of Criminals, subsisting them in Prison until prosecution, and of prosecuting such Criminals for their several offences by due course of law:

20 G. 2. c. 43. And whereas an Act was passed in the twentieth year of the reign of his Majesty King GEORGE the Second, intituled, "An Act for taking away and abolishing the Heritable Jurisdictions in that part of *Great Britain* called *Scotland*," and for other purposes therein mentioned, whereby certain regulations were made relative to Prisons used by barons or heritors of lands having criminal jurisdiction not thereby taken away:

59 G. 3. c. 61. And whereas an Act was passed in the fifty-ninth year of the reign of his Majesty King GEORGE the Third, intituled, "An Act to enable Counties and Stewartries in *Scotland* to give aid to Royal Burghs situated therein, for the purpose of improving, enlarging or rebuilding their Gaols; or to improve, enlarge or rebuild Common Gaols of Counties or Stewartries, which are not the Gaols of Royal Burghs:"

6 G. 4. c. 62. And whereas an Act was passed in the sixth year of the reign of his Majesty King GEORGE the Fourth, intituled, "An Act to amend an Act of the *Scottish* Parliament relative to the Aliment of Poor Prisoners:"

10 G. 4. c. 54. And whereas another Act was passed in the tenth year of the reign of his said Majesty, intituled, "An Act for directing Reports to be made respecting Gaols in *Scotland*;" and, in conformity to the provisions of the said Act, certain reports have been made, which have been laid before Parliament:

And whereas various local Acts have also from time to time been passed, whereby and by virtue of the before-recited Act of the fifty-ninth year of the reign of his Majesty King GEORGE the Third, assessments have been authorized to be levied in various burghs, and also in various counties in aid of the burghs situated therein, for the building and management of Prisons, Bridewells, and other places of confinement, and the maintenance of Prisoners, and the expenses of obtaining such local Acts:

And whereas his late Majesty King WILLIAM the Fourth, by his Royal Commission, dated the Fifteenth day of July One thousand eight hundred and Thirty-three, directed Letters Patent to be forthwith made and passed under the Seal appointed by the Treaty of Union to be kept and made use of in place of the Great Seal of *Scotland,* authorizing and appointing certain Commissioners to make a general inquiry into the state and condition of the several cities, burghs and towns of *Scotland ;* and the said Commissioners have presented a Report, dated the Fifth day of August One thousand eight hundred and Thirty-five, wherein they report, amongst other things, as to the management of Gaols, which Report has been laid before Parliament:

5 & 6 W. 4. c.

And whereas by an Act passed in the fifth and sixth years of the reign of his said late Majesty, intituled, "An Act for effecting greater uniformity of practice in the Government of the several Prisons in *England* and *Wales,* and for appointing Inspectors of Prisons in *Great Britain,*" One of Her Majesty's Principal Secretaries of State is empowered to appoint Inspectors of Prisons in any part of the kingdom of *Great Britain,* who should make and transmit to One of Her Majesty's Principal Secretaries of State yearly reports of the state of every Prison visited by him, copies of which Reports should be laid before Parliament:

And whereas by virtue of the said last-recited Act, an Inspector of Prisons has been appointed to act in *Scotland,* who presented a First Report dated the Third day of February One thousand eight hundred and Thirty-six, and a Second Report dated the Twenty-fifth day of February One thousand eight hundred and Thirty-seven, both of which Reports have been laid before Parliament:

And whereas the Prisons in *Scotland* are in general insecure and incommodious, and incapable of admitting of the adoption of a good system of prison discipline therein:

And whereas the burden of providing and maintaining Prisons, and of supplying aliment to Prisoners therein has been imposed on Burghs by ancient laws and usages, in consideration of grants, privileges and immunities conferred on Burghs, but the funds thereof are now inadequate to bear the aforesaid burden, and many of the privileges and immunities anciently conferred on Burghs have ceased to be valuable; and it is inexpedient that the Burghs should continue liable to the burdens and obligations wherewith they are chargeable in respect of Prisons and Prisoners:

And whereas the aid given by Counties to Burghs for the aforesaid purposes is varying and uncertain, and in many cases cannot be obtained efficiently or without great difficulty and expense:

And whereas it is expedient, with a view to the adoption of efficient means for the punishment and repression of crime, and reformation of Criminals, that provision should be made for the erection and maintenance of more secure and convenient Prisons, and for the better management thereof, and the establishment of a well regulated system of Prison Discipline therein, by the appointment of a Board of Directors of Prisons acting on a uniform system, and invested with power to erect and maintain proper Prisons, and to regulate the discipline and management of all Prisons in *Scotland*, and to raise the necessary funds by means of a General Assessment on Property within the several Counties and Burghs in manner hereinafter provided;

1.
All Laws repealed at variance with this Act.

BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the said recited Acts, and all laws, statutes and usages shall be and the same are hereby Repealed in so far as they are inconsistent or at variance with the provisions of this Act: Provided always, That the same shall continue in force in all other respects whatsoever.

2.
Board of Directors of Prisons.

And be it Enacted, That a Board of Directors shall be established for carrying into effect the purposes of this Act; and the said Board shall consist of the Persons following, namely, the Lord Justice General of *Scotland*, the Lord Justice Clerk, the Lord Advocate, the Solicitor General, the Sheriff Depute of the county of *Edinburgh*, and the Inspector of Prisons for the Northern District, all for the time being, the Honourable *Fox Maule*, the Right honourable Sir *William Rae*, of *Saint Catherine*'s, Baronet, *Robert Kay Greville*, Esquire, Doctor of Laws, and *Graham Spiers*, Esquire, Advocate, together with Seven other Persons, whom it shall be lawful for Her Majesty, from and after the passing of this Act, by warrant under the Royal Sign Manual to appoint; and the said Board shall be and be styled, "THE BOARD OF DIRECTORS OF PRISONS IN SCOTLAND;" and the said Board or any Five of them may sit from time to time as they deem expedient, as a Board of Directors for carrying this Act into execution; and it shall also be lawful for Her Majesty, Her heirs and successors, to supply any vacancy which may occur in the said Board.

3.
Directors to derive no Emolument.

And be it Enacted, That no Director shall derive any profit or emolument for the discharge of the duties of his office as a Member of the Board, nor shall be personally liable for any thing done by him in virtue of his office in the execution of this Act, or in the exercise of the powers herein contained.

4. Secretary to the Board.

And be it Enacted, That it shall be lawful for Her Majesty, and Her heirs and successors, to appoint a fit person to be Secretary to the said Board, and to supply any vacancy which may occur in the said office; and such Secretary shall receive an adequate salary of such amount as shall from time to time be regulated by the said Board, and be approved of by the Lord High Commissioner and Commissioners of Her Majesty's Treasury, or any Three or more of them, which shall be paid out of the funds raised by and under the management of the Board, by virtue of this Act; and any necessary expenses incurred by the Board, or Committees appointed by them, or by individual members of the said Board, in execution of this Act, shall also be paid out of the said funds; and an account of all such payments and expenses shall be annually laid before Parliament, in manner hereinafter provided; and the Secretary to the Board shall find sufficient security for his intromissions and management to the satisfaction of the Board, and shall be liable to be removed by Her Majesty on the recommendation of the said Board.

5. Board may hold Property and Monies, and sue and be sued.

And be it Enacted, That the said Board may acquire and hold heritable and moveable property, monies, goods and effects, and that all titles, securities, investments, receipts and evidences taken for the same, may be taken to and in name of the said Board of Directors of Prisons in *Scotland*, without further description, or to and in name of any Two or more persons appointed Trustees by the said Board, or to and in name of the Secretary to the said Board for the time being, if they shall think fit, under such regulations as to the disposing or uplifting thereof, when taken in the name of Trustees, or of the Secretary, as the Board shall think fit to direct; and all such property, monies, goods and effects being so taken and vested, shall be deemed to be held for the use of the said Board for the time being, for the purposes of this Act, and shall pass and be transmitted to the said Board, and to such Trustees and Secretary for the time being as shall be duly appointed, without the necessity of any further conveyance or assignation; and the said Board are also authorized, for all purposes of civil or criminal action or diligence, or reference to arbitration, to institute, defend or enter into any such civil or criminal proceedings as they may judge necessary, in the name of such Board or Secretary for the time being; and no such proceedings shall be discontinued or abate by any vacancy in any of the said offices, but may be proceeded in, to all intents and purposes, in the name of the Board, or of the Secretary commencing the same, or his successor: Provided always, That no Judge shall be disqualified from acting as such in any such civil or criminal proceedings by reason of being a member of the said Board.

6.
Board to record their Proceedings, and make annual Reports thereof.

And be it Enacted, That the said Board shall make a record of their proceedings, in which shall be entered minutes of all meetings held by them, or any Committee appointed by them, and all regulations or orders made by the Board in virtue of the powers herein given, together with full and detailed accounts of their whole receipts and expenditure, and all other matters which the Board may judge proper; and the said Board shall, on or before the Fifteenth day of February in every year, make and transmit to One of Her Majesty's Principal Secretaries of State, a full Report of their whole proceedings during the year ending on the Thirty-first day of December preceding; which Report shall, in particular, contain the regulations made by the Board for the management and discipline of Prisons, a statement of the Prisons built or altered, with suitable explanations of the design of such buildings or alterations, and an abstract of the whole receipts and expenditure, classifying the separate articles thereof, and showing from whence the receipts have been derived, and to what purposes the expenditure has been applied; and a copy of every such Report shall be laid before both Houses of Parliament, within Fourteen Days after such Fifteenth day of February if then assembled, or if Parliament shall not be then assembled, within Fourteen Days after the next meeting thereof.

7.
Board to make Rules, subject to approval of Secretary of State.

And be it Enacted, That the said Board shall be and they are hereby authorized and required, from time to time as they shall see occasion, to make and submit to One of Her Majesty's Principal Secretaries of State, Rules for the management, good order and discipline of Prisons and Prisoners, and for the mode in which the Board shall enter into contracts for building Prisons, and supplying them with food and other articles of consumption, and for regulating the dietary of Prisoners, and generally for carrying into effect the purposes of this Act; and it shall be lawful for such Secretary of State, if he shall think fit, to alter such Rules, or to make additional Rules thereto; and he shall grant a certificate that such Rules as submitted to him, or altered or added to, are proper to be observed and enforced; and upon such certificate being granted, such Rules shall be by the Secretary of State transmitted to the Board, and shall be effectual.

8.
Existing authorities relieved of all obligations in respect of Prisons and Prisoners.

And be it Enacted, That from and after the First day of January One thousand eight hundred and Thirty-nine, all obligations, duties and burdens relative to the building, maintenance and management of Prisons, and the aliment and discipline of Prisoners, presently or previously to the said date, imposed by any law, statute or usage on magistrates of burghs, commissioners of supply of counties, or commissioners or trustees appointed under the authority of Parliament, or on any other person or persons whatever, shall cease and determine: Provided always, That nothing herein contained shall invalidate or affect any thing which shall have been done previously to the said date, or the right of such Magistrates, Commissioners or Trustees to use the powers and authorities presently vested in them, for the purpose of recovering and obtaining possession of property or monies belonging or due to them, or of raising assessments in implement or security of obligations for which they were liable at the said date, for advances of money made on the faith and security of such assessments; and provided also, That nothing herein contained shall be held to impair or affect any obligation presently or previously to the said date imposed by any law, statute or usage on Her Majesty, and Her heirs and successors, relative to Prisons or Prisoners, and particularly relative to the removing and aliment of Prisoners.

Proviso as to Her Majesty.

9. Liability of Burghs for custody of Debtors abolished, and imposed on the Keeper of the Prison.

And be it Enacted, That from and after the said last-mentioned date, the obligations and liabilities of Magistrates of Burghs for the secure and close confinement of Prisoners for Civil Debts, shall be and the same are hereby abolished; and such obligations and liabilities shall from and after the said date be transferred to and upon the Keepers of the Prisons in which such Prisoners shall be confined; and it is hereby provided, that all Keepers of Prisons appointed by or acting under the Board, shall find due and sufficient security for their good conduct and fulfilment of their duties and obligations, to the satisfaction of the said Board, having regard to the extent of their several duties and obligations and the amount of their salaries.

10. Prison Fees abolished.

And be it Enacted, That from and after the said last-mentioned date, all Fees of every description payable by Civil or Criminal Prisoners to Keepers or Officers of Prisons, shall be and the same are hereby abolished.

11. Existing Prisons and Prison Funds vested in the Board.

And be it Enacted, That all existing Prisons, and all Prisons which shall exist on the said First day of January One thousand eight hundred and Thirty-nine, together with all the furniture and appurtenances of the same, shall from and after the said date be and the same are hereby vested in the Board of Directors of Prisons; and that the said property and effects, and all other heritable or moveable property, monies, goods and effects, vested or remaining at the said First day of January One thousand eight hundred and Thirty-nine, in the hands of Commissioners, Magistrates, Trustees or other persons, under any Act of Parliament, or under any law or usage, for the purpose of building, repairing or maintaining Prisons or supplying aliment to Prisoners, in so far as such property, monies, goods or effects have been and are in their hands or may be recovered by them for the aforesaid purposes, shall, at the said last-mentioned date, or as soon as possible thereafter, be conveyed, assigned and paid over to the Board hereby appointed, or to persons duly authorized by them to that effect; and such Commissioners, Magistrates, Trustees or other persons, are hereby authorized and required to make, grant, subscribe and deliver all necessary dispositions, assignations, and conveyances of all such property, monies, goods and effects, in order that valid titles may be completed thereto by the said Board, or their Trustees or Secretary: Provided always, That in so far as such balances of monies paid or assigned in compliance with the directions of this Act, shall not be required to complete any building or other operation then in progress, or to pay or fulfil any existing debt or obligation, and in so far as the same or any part thereof may have been raised by assessment upon any County or Burgh, the same or such part thereof shall be imputed by the Board towards payment of the first proportions of assessment authorized by this Act to be allocated upon such County or Burgh, until the same or part thereof as aforesaid shall be exhausted: And provided also, That where any court-house or county-rooms, or other buildings used for local public purposes form a part of or are connected with any existing Prison, nothing herein contained shall be held to give the Board any right to such court-house or county-rooms, or buildings so used for local public purposes.

12.
Clause (A.)
Right of Preemption in case of discontinuance and disposal of Prisons.

And be it Enacted, That in case the said Board shall think proper to discontinue any existing Prison, which forms part of any building used for other purposes as aforesaid, and to dispose thereof under the powers herein given, they shall make the first offer of the same to the persons having right to the other parts of the building, at such reasonable price as may be agreed on between them, or in case of their differing in opinion, as may be fixed by Valuators appointed by the Sheriff of the territory: Provided always, That the Board may give up and discontinue any of the small Prisons in such situations, without requiring any price, if they shall think proper.

13.
Board to provide necessary Prison accommodation of every kind.

And be it Enacted, That the Board shall be and they are hereby authorized, as soon after the passing of this Act as they shall find convenient, to erect and provide Prisons, which shall be under the superintendence of competent Keepers, and shall be in such situations as the said Board may think suitable and convenient; and such Prisons shall be so constructed and fitted up as to afford the best means for carrying into effect the purposes of this Act, and the Rules to be made in virtue hereof, and particularly for training the Prisoners in good and industrious habits, by employing them in useful labour, by affording them religious and moral instruction, and by effecting their complete separation; and the said Board shall maintain, or if necessary provide, a sufficient Prison at every town in which Circuit Courts are held by the Court of Justiciary, and also at every town in which any Sheriff is in use to hold Courts for the exercise of his ordinary criminal jurisdiction; and also at every Burgh contained in the Schedule hereto annexed, together with all such other local Prisons as they may deem to be requisite, or as they may be directed by the Court of Justiciary to maintain or provide: Provided always, That the said Board shall maintain or provide at least one sufficient Prison for the reception of civil debtors in each county.

14. Her Majesty and Council may direct public Buildings to be granted to the Board.

And be it Enacted, That the Commissioners for executing the office of Lord High Admiral of the United Kingdom for the time being, and the Officers of Her Majesty's Ordnance for the time being, shall be and they are hereby authorized and required to grant and convey to the said Board of Directors of Prisons, such lands, houses, buildings and pertinents thereto belonging, presently vested in the said Commissioners or Officers, or either of them, as the said Commissioners or Officers, or either of them, shall be directed by Her Majesty and Council to grant and convey to the said Board of Directors for the purposes of this Act.

15. Board to have the entire management of Prisons;

And be it Enacted, That from and after the said First day of January One thousand eight hundred and Thirty-nine, the said Board of Directors of Prisons shall possess and exercise the full power of administration and management of all Prisons in *Scotland*; and the said Board shall, by a writing under their hands, or the hands of any Five of them, and which shall be published in the *Edinburgh* Gazette, and in such other manner as they shall think proper, declare and intimate, from time to time, the names and situations of all Prisons under their administration and management, and the description of Prisoners to be received therein respectively; and all such Prisons shall be lawful Prisons for the description of Prisoners so declared and intimated to be received therein respectively, without the necessity of any certificate or approbation of the Court of Session or Justiciary; and the said Board shall be and they are hereby empowered from time to time, as they shall think proper, to discontinue and sell and dispose of any Prison under their administration and management, or take down and rebuild, or alter the same, and to erect and provide new and more commodious Prisons, which shall be better adapted for the system of discipline required to be observed by them, and in more suitable situations; and the Board may also, from time to time, as they shall think proper, alter and determine the description of Prisoners to be received in any Prison under their administration and management; and intimation shall be given by the Board, in manner aforesaid, of any such discontinuance of a former Prison, or establishment of a new one, and of the description of Prisoners to be received in any new Prison, or in any Prison in which the former description of

Prison Funds;

and Prisoners.

Prisoners may be altered; and the said Board shall have power to appoint and suspend or dismiss at pleasure the Keepers of Prisons, and also Chaplains, Medical Officers and Teachers, where they shall judge proper, together with all other officers and servants required in the execution of this Act, and to assign to all such persons such remuneration for their services as they shall think proper, and also to give such compensation as they may deem just to any such person now in office who may be suspended or dismissed by them, and who by the tenure of his office may be entitled thereto; and the said Board shall further possess and exercise the full power of administration and management of the whole property, monies, goods and effects to be raised and vested in them, and shall hold, use and apply the same for the purposes, and in terms of this Act; and the said Board shall further possess and exercise the full power of regulating the confinement, treatment and diet of all Civil and Criminal Prisoners, and of separating and setting them to work, and taking all due means to train them in good and industrious habits: Provided always, That the aforesaid powers of the said Board in respect of the management of Prisons and Prison Funds and Prisoners, shall be at all times subject to the conditions and limitations contained in this Act and in the Rules to be made in virtue hereof; and provided further, That the Board shall not have power to set to work any Civil Prisoners or any untried Criminal Prisoners without their own consent; but in case of such Civil Prisoners consenting to submit to the ordinary rules of the Prison in regard to work, they shall be entitled to the usual Prison diet.

16.
Aliment of Civil Prisoners to remain as under present Law.

Provided always, and be it Enacted, That the liability of Creditors Incarcerators to provide aliment to poor Prisoners, and the law relative to the aliment of Civil Prisoners, shall not be altered or affected by any thing contained in this Act.

17.
Insane Criminal Prisoners.

And be it Enacted, That provision shall be made for the proper custody, treatment and maintenance of Criminal Prisoners, who by reason of Insanity or Lunacy may be found by the Court to be unfit to be brought to trial, or who may upon their trial be found to be Insane or Lunatic, or to have been so when the offence wherewith they were charged was committed, and who may be detained and subjected to confinement as such; and that it shall be lawful for the Board, if they shall think proper, instead of making use of a Prison or any portion thereof for the custody of such Prisoners, and in addition to the powers herein conferred, to contract and agree with the Directors or Managers of any Lunatic Asylum for the close and safe custody and maintenance of such Insane or Lunatic Prisoners, on such terms as may be agreed upon: Provided always, That all competent right of relief of the expenses incurred in the custody

and

and maintenance of such Prisoners against their own estates or funds shall be and the same is hereby reserved.

18. Removal of Prisoners.

And be it Enacted, That the Board may, in pursuance of general rules made as aforesaid, and also by orders issued by them from time to time as they shall think proper, direct the removal of all Civil or Criminal Prisoners from one Prison to any other Prison deemed more fit and convenient, such removal and the Prison to which it shall be made being always entered in the books of the Prison from which the removal shall take place; and all such rules and orders shall be valid and effectual without the necessity of any further authority: Provided always, That it shall not be competent to remove any Civil Prisoner to any Prison which shall be beyond the county in which he is incarcerated without his own consent, or any untried Criminal Prisoner to any Prison which shall be beyond the district of the Justiciary Circuit Court of the place of his imprisonment, or in case of the Counties of *Edinburgh*, *Haddington* and *Linlithgow*, and the Burghs situated therein, to any Prison beyond such counties, unless such removal beyond such district or Counties and Burghs shall be made by special order of the Court of Session, or of the Court of Justiciary, or of the Board for cause assigned, or with the consent of such Prisoner; provided that in either of the two last-mentioned cases the order and cause thereof, or the consent of the Prisoner, shall be entered and attested in the books of the Prison from which the removal shall take place by the Keeper thereof and provided also, That it shall be competent to any such Prisoner, removed by order of the Board as aforesaid, to apply by summary Petition to the Lord Ordinary on the bills, or to any Judge of the Court of Justiciary, who is hereby authorized, after intimation of such Petition to the Secretary of the said Board, to hear parties summarily, and upon just cause shown to order him to be replaced in the Prison from which he was removed, and such order shall be immediately carried into effect, and shall be final; and such summary Petition, and all proceedings thereon, shall be exempt from fees of Court.

19. Place of Imprisonment.

And be it Enacted, That Sheriffs may commit Criminal Prisoners after trial to the nearest or most accessible Prison, or to any Prison within their several Justiciary Circuit Court Districts, or in case of the Counties of *Edinburgh*, *Haddington* or *Linlithgow*, and the Burghs situated therein, to any Prison within such Counties or Burghs; and all other inferior Judges and Magistrates may commit such Prisoners to the nearest or most accessible Prison; and all Sheriffs and other inferior Judges and Magistrates may commit untried Criminal Prisoners to the nearest or most accessible Prison, although such Prison may not be within their ordinary jurisdiction; and all orders given by them, requiring the separate or solitary confinement of such Prisoners, before being committed until liberated in due course of law, shall be duly carried into effect; and all messengers at arms or other officers in the execution of civil diligence shall take and commit Civil Prisoners to the nearest or most accessible Prison; and all warrants granted, and commitments made to any Prison in terms of this Act, or for again bringing up any Prisoner for re-examiation or trial, shall receive effect, without indorsation by any Sheriff, or other inferior Judge or Magistrate, within whose ordinary jurisdiction such Prison may be situated.

20.
Power of Judges to order peculiar treatment of Prisoners, and to punish Keepers for Malversation.

Provided always, and be it Enacted, That nothing contained in this Act, or in the Rules to be made in virtue hereof, shall be held to affect the execution of any orders or directions which shall be contained in any sentence relative to any peculiar mode of confining, treating or supplying aliment to convicted Criminal Prisoners by way of additional punishment; and provided also, That the Judges of the Courts of Session and Justiciary shall have full power in cases of malversation of office by Keepers or other Officers of Prisons appearing in the course of judicial proceedings before them, either to inflict such summary punishment on such Keepers or Officers by fine, suspension or deprivation of office, as they shall think fit, or to report the circumstances to the Board: Provided, That notwithstanding the infliction of such punishment, all rights or claims of damages competent to persons injured shall remain entire.

21.
Board to make Estimate of Sums required, and Estimate to be laid before Secretary of State and Parliament.

And be it Enacted, That on or before the Fifteenth day of February in the year One thousand eight hundred and Thirty-eight, and in every succeeding year, the Board shall make and transmit to One of Her Majesty's Principal Secretaries of State, an Estimate of the sums which they shall require in the execution of this Act during the year from the First day of January to the Thirty-first day of December (both inclusive) then next ensuing; and such Estimate shall form part of the annual Report hereinbefore directed to be made to such Secretary of State, and to be by him laid before both Houses of Parliament, and shall set forth in a separate and distinct manner the purposes for which the sums therein contained shall be required; and the said Estimate shall not be acted upon, or apportioned in manner hereinafter provided, until the expiration of One Month after the same shall have been transmitted to Her Majesty's Principal Secretary of State as aforesaid, and his approval thereof shall have been signified to the Board.

22.
Estimated Sums to be apportioned according to Population and Crime.

And be it Enacted, That the sums contained in the said Estimate, so approved, shall be annually apportioned by the said Board, under the limitation hereinafter contained, among and upon the several Counties

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Counties and Burghs set forth in the Schedule (A.) to this Act annexed, in manner following; namely, among and upon the several Counties, including such of the said Burghs as are situated therein, according to the Scale of Proportions exhibited in the said Schedule, framed on a combined estimate of the amount of population and crime in such Counties and Burghs; and among and upon the said Burghs situated in each County, and the remainder of such County, exclusive of such Burghs, according to the relative population of such Burghs, and the remainder of such Counties respectively; and the said Board are hereby empowered, from and after the passing of this Act, and after each general census of the Kingdom, to ascertain and determine such relative population, which determination shall be final for the purposes of this Act; and the Board shall give notice of such apportionment on Counties to the Convener of the Commissioners of Supply thereof, and on Burghs to the Chief Magistrate or administrator of the affairs thereof: Provided always, That notice shall be held to be duly given by letter sent by the General Post, properly addressed, containing such notice.

23.
Assessment authorized on Counties.

AND be it Enacted, That the portion of the gross amount of the foresaid estimated sums which shall be annually apportioned by the Board on the several counties as aforesaid, shall be assessed by or under the authority of the Commissioners of Supply of each county, as follows; namely, upon all property contained in the valuation books of such county according to the valued rent of such property; and upon all houses within such county, not being within any Burgh in the Schedule hereto annexed, according to the annual value of such houses; that is to say, for every Five Pounds Scots that shall be assessed on every Hundred Pounds Scots of the valued rent of property, there shall be assessed the sum of One Penny sterling on every Pound sterling of the annual value of such houses; but it is hereby expressly provided and declared, that houses situated on lands valued in the valuation books of the said county, and chargeable with assessment imposed by this Act on property so valued, to a greater amount than the sum for which the said houses would be chargeable under this Act, shall not also be liable to the assessment hereby imposed on houses; and the said Commissioners in the several counties are hereby authorized and required, at their first meeting, which shall be held after notice as aforesaid by the Board to the Convener of such county, to lay on and collect or direct the laying on and collecting of the sum apportioned on each respective county, together with such further sum as may be necessary to cover expenses of assessment, collection and remittance, and any arrears of preceding years, in the proportions aforesaid, and in such manner and by such persons as they shall from time to time appoint; and the said Commissioners and their Convener and Collector in the several counties shall remit the whole sum apportioned, at their risk *and free of all expenses, to the Board, through one of the Chartered Banks in Scotland, within Twelve Months after notice to the Convener as aforesaid, with legal interest thereafter of the same or any balance thereof until paid.*

24.
CLAUSE (B.)
Mode of levying Assessment on Houses in Counties.

And be it Enacted, That the assessment authorized by this Act to be assessed and collected on houses within counties, may be levied either on the proprietor or the tenant, but such tenant, in case of his paying the same, shall be entitled to deduct the amount from the rent payable by him: Provided always, That the said Commissioners, or a Committee of their number appointed for that purpose, may remit on account of poverty any part of the assessment authorized by this Act to be levied on houses: And provided also, That where the assessment on houses shall be of very small amount, it shall be competent to the said Commissioners either to remit the same altogether, or to make such postponement in the collection of the same, to the effect of collecting Two or more years' assessment on houses at one time, as they may think proper.

25.
Assessment authorized on Burghs.

And be it Enacted, That the portion of the gross amount of the foresaid estimated sums which shall be annually apportioned by the Board on the several Burghs as aforesaid, shall be assessed by or under the authority of the Magistrates of each Burgh on the annual value of property within the same; and the said Magistrates of the several Burghs are hereby authorized and required, as soon as conveniently may be, after notice as aforesaid by the Board to the Chief Magistrate, to lay on and collect or direct the laying on and collecting of the sum apportioned on each respective Burgh, with such further sum as may be necessary to cover expenses and risk of assessment, collection and remittance, and any arrears of preceding years, in like manner and with the same powers and right of action and diligence and of using summary warrants and proceedings, for the recovery of the same, as may be competent with respect to any other municipal or police or general assessment with which the said Magistrates may deem it most expedient that the sum apportioned as aforesaid should be laid on and collected: And the said Magistrates shall, at their risk, and free of all expenses, remit the whole sum apportioned to the Board, through one of the Chartered Banks in Scotland, within Twelve Months after notice to the Chief Magistrate as aforesaid, with legal interest thereafter of the same, or any balance thereof, until paid.

26.
Mode of collection in Burghs where no other general Assessment.

And be it Enacted, That in any Burgh in which there may be no municipal or police or other general assessment, or in which it may appear to the Magistrates to be inexpedient to levy the assessment hereby authorized, along with any other existing assessment, the sums annually apportioned in such Burgh as aforesaid shall be assessed and collected by or under the authority of the Magistrates thereof, on the *annual value of property within the same, in such manner as they shall think just; and for this purpose the Magistrates of any such Burgh are hereby authorized and required to appoint assessors and collectors, and to lay on and collect, or direct the laying on and collecting of the sum apportioned on such Burgh, with such further sum as may be necessary to cover expenses and risk of assessment, collection and remittance, and any arrears of preceding years, and to remit the whole sum apportioned to the Board through one of the Chartered Banks in Scotland, within Twelve Months after notice to the Chief Magistrate as aforesaid, with legal interest thereafter of the same, or any balance thereof, until paid.*

27.
Common Good and Revenues of Burghs may be applied in payment of Assessment.

Provided always, and be it further Enacted, That the Magistrates of Burghs shall be and they are hereby required to apply in payment of the sums annually apportioned by the said Board on their several Burghs, such portion of the yearly proceeds of the common good of the same as shall have been heretofore duly applied, and but for this Act would have continued to be duly applicable to the maintenance of Prisons and Prisoners, in so far as such portion shall be required: And provided further, That in any Burgh in which the free yearly proceeds of the common good, property and revenues thereof, may be judged by the Magistrates thereof to be sufficient to pay the sum, or any part thereof, annually apportioned on such Burgh as aforesaid, after defraying the ordinary municipal and police charges and expenses, and other annual burdens chargeable on such common good, property or revenues, including the interest of debts due by such Burgh, it shall be competent to the Magistrates thereof to pay the sum or any part thereof so apportioned on such Burgh, which the Magistrates may think proper, out of the free yearly proceeds of the said common good, property or revenues.

28.
Assessment within Burgh to be divided between Landlord and Tenant.

And be it Enacted, That the assessment authorized by this Act to be assessed and collected within Burghs shall be payable by the tenant or occupant of property assessed; but such tenant or occupant by whom such assessment shall be paid, shall be entitled to deduct one-half *of such assessment from the rent payable to the proprietor or person by whom such property was let; and such assessment shall be payable at such terms as the Magistrates may appoint: Provided, That one-half of such assessment may be levied directly from the proprietor of property assessed within the Burgh; and provided also, That the Magistrates of any Burgh may remit, on account of poverty, the whole or any part of the assessment authorized by this Act to be levied from any tenant or occupant of property within Burgh.*

29.
Clause (C.)
Tenants under Building Leases, to be held Proprietors.

And be it Enacted, That where houses in Counties or Burghs have been or shall be built by the tenant of any land held under lease, upon such land, the tenant and his heirs and assignees in such lease shall, for *the purposes of this Act, be deemed and taken to be the proprietors of such houses.*

30.
Assessment limited to 30,000 *l.*, and Treasury may make advances.

And be it Enacted, That it shall not be lawful for the said Board to raise in any one year within Scotland, by the assessment authorized by this Act, more than Thirty thousand Pounds: Provided always, and be it Enacted, That it shall be lawful for the Lord High Treasurer or Commissioners of Her Majesty's Treasury, or any Three or more of them, from time to time to advance to the Board on the security of the property and assessments, vested in them, and to be raised by virtue of this Act, which security the said Board are hereby authorized to give, such sums as to the said Commissioners may seem proper, which shall be repaid by the Board to the Commissioners, with such interest as may be agreed upon.

31.
CLAUSE (D.)
Board may give relief in certain cases of large recent Expenditure.

AND whereas the existing Prisons vested in the said Board may be greatly more valuable and efficient for the purposes of this Act in some Counties and Burghs than in others, in consequence of recent expenditure of monies thereupon, and it is just that some relief should be afforded to such Counties and Burghs; BE it therefore Enacted, That it shall be lawful for the said Board, having regard to the circumstances of such Counties and Burghs, and to the value and efficiency for the purposes of this Act of the Prisons situated therein, to afford to them such relief as the said Board shall think proper, by remission of a portion of the assessment annually allocated upon such Counties or Burghs during such period as the Board may think fit: Provided always, That the amount of such relief, in any one year, shall not exceed the sum of Ten Pounds for every One hundred Pounds of the sums to be assessed on such Counties or Burghs, under the authority of this Act.

32.
Monies payable to the Board to be paid into Chartered Bank.

And be it Enacted, That all sums of money payable to or on account of the said Board shall be without delay paid into one of the chartered Banks in *Scotland*, in the name of the said Board, and the account kept by the Board with such Bank or Banks shall only be operated on by drafts or orders signed by not less than Three of the Directors of the said Board; and it shall not be lawful for the Secretary to the Board, or any person intrusted with the receipt of the monies belonging thereto, to retain in his hands any such monies beyond such time as may be necessary for paying the same into a Chartered Bank, declaring that such Secretary or any such person shall be liable in a penalty at the rate of Five Pounds for every One hundred Pounds for each day during which the same may have been so unnecessarily retained.

33.
Visitation and inspection of Prisons.

And be it Enacted, That it shall be lawful for Her Majesty's Principal Secretaries of State, or any persons appointed by them or any of them, Her Majesty's Lord Lieutenants of the several counties, the Members of Her Majesty's Privy Council, the Judges of the Court of Session or Court of Justiciary, and the Members of the said Board of Directors of Prisons, and also for all Sheriffs, Conveners of the Commissioners of Supply of Counties, Chief Magistrates and Bailies of Burghs, and for Committees of not more than five of the Commissioners of Supply, being Justices of the Peace, to be named at their annual meeting of the Thirtieth day of April, and for Committees of not more than Three of the Councillors of Burghs, all within their several Counties and Burghs, and also for all persons to whom the Board may grant such permission, to visit and inspect the state and condition of the several Prisons, and discipline of Prisoners therein, and from time to time, as they shall see cause, to report their observations to the Board, who shall give immediate and attentive consideration thereto; and copies of the Annual Reports of the proceedings of the Board, together with the Estimate forming part thereof, as before provided, and required by this Act to be transmitted to the Secretary of State, and laid before Parliament, shall be transmitted by the Board to all the aforesaid persons who may desire the same, as soon as conveniently may be, after the preparation and transmission thereof to the Secretary of State.

34.
Board to receive and send Letters free of Postage.

And be it Enacted, That the said Board may receive and send by the General Post from and to places within the United Kingdom, all letters and packets relating solely and exclusively to the execution of this Act, free from the duty of Postage; provided that such letters and packets as shall be sent to the said Board be directed to "The Board of Directors of Prisons," at their office in Edinburgh; and that all such letters and packets as shall be sent by the said Board shall be in covers, with the words "Office of Board of Directors of Prisons, pursuant to Act of Parliament passed in the First year of the reign of Her Majesty Queen VICTORIA," printed on the same, and be signed on the outside thereof under such words, with the name of such person as the said Board, with the consent of the Lords Commissioners of the Treasury, or any Three or more of them, shall authorize and appoint, in his own handwriting, (such name to be from time to time transmitted to the Secretary of the General Post Office in *Edinburgh*), and under such other regulations and restrictions as the said Lords Commissioners, or any Three or more of them, shall think proper and direct; and the person so to be authorized is hereby strictly forbidden so to subscribe any letter or packet whatever, except such only concerning which he shall receive the special direction of one or more members of the said Board, or such as he shall himself know to relate solely and exclusively to the execution of this Act;

and if the person so to be authorized, or any other person, shall send, or cause or permit to be sent under any such cover, any letter, paper or writing, or any enclosure other than what shall relate to the execution of this Act, every person so offending shall forfeit and pay the sum of One hundred Pounds, and be dismissed from his office, one moiety of the said penalty to the use of Her Majesty, Her heirs and successors, and the other moiety to the use of the person who shall inform or sue for the same, to be sued for and recovered before the Court of Session for offences committed in *Scotland*, and in any of Her Majesty's Courts of Record at *Westminster* for offences committed in *England*, and in any of Her Majesty's Courts of Record in *Dublin* for offences committed in *Ireland*; and if any letter, paper, writing or other enclosure shall be sent under cover to the said Board, the same not relating solely and exclusively to the execution of this Act, they are hereby strictly required and enjoined to transmit the same forthwith to the Secretary of the Post-office in *Edinburgh*, with the covers under which the same shall be sent, in order that the contents thereof may be charged with the full rates of postage.

35.
Boundaries of Burghs.

And be it Enacted, That the Limits and Boundaries of the Burghs in the said Schedule (A.) shall, for the purposes of this Act, be taken and held to be according to the description and specification of such limits and boundaries determined by an Act passed in the second and third years of the reign of His late Majesty, King WILLIAM the Fourth, intituled, "An Act to amend the Representation of the People in *Scotland*;" and for the purposes of this Act, the Town of *Maxwelltown* shall be held to be part of the Burgh of *Dumfries*, and within the County of *Dumfries*.

36.
Corporate bodies, heirs of entail and others, may convey property to the Board.

And be it Enacted, That it shall be lawful for any body politic, corporate or collegiate, heir of entail, tutor, trustee or any other person, although under any legal disability or incapacity, who shall be vested and seised in, or possessed of any lands, houses or heritages which the said Board may desire to purchase or acquire for the purposes of this Act, to sell, dispone and convey the same to the said Board, for such fair and adequate price as shall be agreed upon; and all such conveyances, and the titles to be made up thereupon in favour of the Board, or their Trustees or Secretary, shall be in common form, and shall be valid and effectual; and all such bodies politic, heirs of entail and other persons so conveying, are hereby indemnified for or in respect of such conveyance, which they or any of them shall make in pursuance of this Act.

37.
Application of the price.

And be it Enacted, That if any price agreed to be paid by the said Board for any such lands, houses or heritages, to or on behalf of any corporate body, heir of entail, pupil or other person under disability or incapacity, shall exceed the sum of Twenty Pounds, the same shall be paid into one of the chartered banks in *Scotland*, to an account in the names of Two persons, one to be named by the said Board and the other by the persons making such conveyance; and such price shall be applied under the direction of the Court of Session, obtained upon a petition presented in a summary way to the Court by the said Two persons, in the purchase of the land-tax, or towards the discharge of debt or other incumbrance, or in the purchase of lands, houses or heritages, or in such other manner, being to the same or the like uses and purposes as those upon which the property so conveyed stood settled or invested, as the said Court shall direct; and if any price agreed to be paid as aforesaid shall be less than Twenty Pounds, the same shall be paid to the person or persons making such conveyance: Provided always, That the said Board shall not be responsible for the application of any such price paid by them in terms of this Act.

38.
Disputes arising as to Assessment, to be summarily settled by the Sheriff, in case no other mode.

And be it Enacted, That any dispute which may arise in assessing or collecting the assessments authorized by this Act, between the Commissioners of Supply of Counties, or the Magistrates of Burghs, or the assessors, collectors or others acting under them on the one part, and any person aggrieved on the other part, for the settlement of which dispute no provision shall be made under the authority of this Act, and in case it shall not be competent to raise and determine the same in the Sheriff's Small Debt Court, shall be determined in a summary way by any Sheriff of the Sheriffdom in which such dispute shall arise, who shall, on a written Petition being presented to him by either of the aforesaid parties, appoint them to appear before him, when he shall hear them, investigate the matter in dispute in such way as he may think proper, and decide the same summarily, and such decision shall be final, and shall not be liable to appeal or to suspension, advocation or reduction.

39.
CLAUSE (E.)
Provision for refusal or neglect by Commissioners of Supply and others.

And be it Enacted, That in case any Convener or Commissioners of Supply of Counties, or persons appointed by them, or any Magistrates of Burghs, or persons appointed by them, shall refuse or neglect to do what is herein required of such persons respectively, it shall be lawful for the said Board to apply by summary complaint to the Court of Session, which Court is hereby authorized and directed in such case to do therein as to such Court shall seem just and necessary for the execution of the purposes of this Act.

40.
Interpretation of words.

And be it Enacted, That the following words and expressions used in this Act shall, in the construction thereof, be interpreted as follows, except where the nature of the provision or the context of the Act shall be repugnant to such construction; that is to say, the word "Prison" shall extend to and include every Gaol, Bridewell, House of Correction, Penitentiary, Lock-up House, or other house or place in which persons may be confined as Civil or Criminal Prisoners, having regard in each case to the nature of the Prison as declared and intimated by the Board, and to the description of Prisoners in question; "County" shall include and apply to a County exclusive of the Burghs situated therein; "Burgh" shall include and apply to the Cities, Burghs and Towns contained in Schedule (A.) to the Act annexed, according to the boundaries thereof defined by this Act; "Magistrates of Burghs" shall include the Lord Provost, or Provost or Chief Magistrate, and Magistrates and Council of Burghs; "Sheriff" shall include Steward, and Sheriff Substitute, and Steward Substitute; "Property," in Counties, shall extend to and include all descriptions of property valued in the cess or valuation books of counties; "Houses," shall extend to and include dwelling-houses, shops, warehouses, mills and manufactories; "Property," in Burghs, shall extend to and include houses, shops, warehouses, manufactories, cellars, gardens, yards, and all buildings and pertinents thereof; "Criminal Prisoner" shall include all persons committed to prison on any criminal charge, and all persons sentenced or ordered by any Court of Justice to be imprisoned or confined, either as a punishment for delinquency, or for the public security, or until or instead of payment of a fine or penalty payable, in whole or in part, to the public prosecutor or for the public interest; "Civil Prisoner" shall include all persons imprisoned for civil debt, or until or instead of payment of a fine or penalty to a private prosecutor or informer; "Person" shall extend to a body politic, corporate or collegiate.

41.
Act to continue in force for Ten Years.

And be it Enacted, That this Act shall continue in force for the period of Ten Years from and after the First day of January One thousand eight hundred and Thirty-nine, and from thence to the End of the then next Session of Parliament.

42.
Act may be altered, &c.

And be it Enacted, That this Act may be altered, amended or repealed by any Act or Acts to be passed during the present Session of Parliament.

SCHEDULE

SCHEDULE (A.)

TO WHICH THE FOREGOING ACT REFERS.

COUNTIES, AND BURGHS SITUATED THEREIN. *Note.*—The Assessment is to be apportioned by the Board on the Burghs in each County, and on the remainder of such County according to their relative Population.	Scale of Proportions of each £. 100 assessed.			Maximum of Assessment.		
	£.	s.	d.	£.	s.	d.
ABERDEENSHIRE, including the Burghs of						
Aberdeen - - - - - - -	9	6	4	2,795	–	–
Peterhead - - - - - - -						
Inverury - - - - - - -						
Kintore - - - - - - -						
ARGYLESHIRE, including the Burghs of						
Campbelltown - - - - - - -	3	1	8	925	–	–
Inverary - - - - - - -						
Oban - - - - - - -						
AYRSHIRE, including the Burghs of						
Ayr - - - - - - -	4	6	1	1,291	5	–
Irvine - - - - - - -						
Kilmarnock - - - - - - -						
BANFFSHIRE, including the Burghs of						
Banff - - - - - - -	1	6	7	398	15	–
Cullen - - - - - - -						
BERWICKSHIRE, including the Burgh of						
Lauder - - - - - - -	1	–	9	311	5	–
BUTESHIRE, including the Burgh of						
Rothsay - - - - - - -	–	7	9	116	5	–
CAITHNESS-SHIRE, including the Burgh of						
Wick - - - - - - -	1	8	5	426	5	–
CLACKMANNANSHIRE - - - - - - -	–	11	2	167	10	–
DUMBARTONSHIRE, including the Burgh of						
Dumbarton - - - - - - -	1	10	4	455	–	–
DUMFRIES-SHIRE, including the Burghs of						
Annan - - - - - - -	2	15	8	835	10	–
Dumfries (including Maxwelltown) - - -						
Lochmaben - - - - - - -						
Sanquhar - - - - - - -						
EDINBURGHSHIRE, including the Burghs of						
Edinburgh - - - - - - -	13	1	5	3,921	5	–
Leith - - - - - - -						
Musselburgh - - - - - - -						
Portobello - - - - - - -						
ELGIN or MORAYSHIRE, including the Burghs of						
Elgin - - - - - - -	–	19	5	291	5	–
Forres - - - - - - -						

COUNTIES, AND BURGHS SITUATED THEREIN. *Note.*—The Assessment is to be apportioned by the Board on the Burghs in each County, and on the remainder of such County according to their relative Population.	Scale of Proportions of each £.100 assessed.			Maximum of Assessment.		
	£.	s.	d.	£.	s.	d.
FIFESHIRE, including the Burghs of	4	11	8	1,375	–	–
Anstruther, East						
Anstruther, West						
Auchtermuchty						
Burntisland						
Crail						
Cupar						
Dunfermline						
Dysart						
Earlsferry						
Falkland						
Inverkeithing						
Kilrenny						
Kinghorn						
Kirkaldy						
Newburgh						
Pittenween						
St. Andrew's						
FORFARSHIRE, including the Burghs of	5	15	–	1,725	–	–
Aberbrothwick						
Brechin						
Dundee						
Forfar						
Montrose						
HADDINGTONSHIRE, including the Burghs of	1	7	4	410	–	–
Dunbar						
Haddington						
North Berwick						
INVERNESS-SHIRE, including the Burgh of Inverness	2	19	11	898	15	–
KINCARDINESHIRE, including the Burgh of Inverbervie	1	1	1	316	5	–
KINROSS-SHIRE	–	11	11	178	15	–
KIRKCUDBRIGHTSHIRE, exclusive of Maxwelltown, and including the Burghs of	1	7	1	405	15	–
Kirkcudbright						
New Galloway						
LANARKSHIRE, including the Burghs of	13	14	11	4,123	15	–
Airdrie						
Glasgow						
Hamilton						
Lanark						
Rutherglen						
LINLITHGOWSHIRE, including the Burghs of	1	–	10	312	10	–
Linlithgow						
Queensferry						
NAIRNSHIRE, including the Burgh of Nairn	–	6	10	102	10	–
ORKNEY & SHETLAND, including the Burgh of Kirkwall	1	7	6	412	10	–
PEEBLES-SHIRE, including the Burgh of Peebles	–	6	3	93	15	–

COUNTIES, AND BURGHS SITUATED THEREIN. *Note.*—The Assessment is to be apportioned by the Board on the Burghs in each County, and on the remainder of such County according to their relative Population.	Scale of Proportions of each £. 100 assessed.			Maximum of Assessment.		
	£.	s.	d.	£.	s.	d.
PERTHSHIRE, including the Burghs of	7	14	3	2,313	15	–
Culross - - - - - - - - -						
Perth - - - - - - - - -						
RENFREWSHIRE, including the Burghs of	7	16	7	2,348	15	–
Greenock - - - - - - - -						
Paisley - - - - - - - -						
Port Glasgow - - - - - - -						
Renfrew - - - - - - - -						
ROSS and CROMARTYSHIRES, including the Burghs of	2	–	10	612	10	–
Cromarty - - - - - - -						
Dingwall - - - - - - -						
Fortrose - - - - - - - -						
Tain - - - - - - - -						
ROXBURGHSHIRE, including the Burgh of	2	5	9	686	5	–
Jedburgh - - - - - - -						
SELKIRKSHIRE, including the Burgh of	–	7	6	112	10	–
Selkirk - - - - - - - -						
STIRLINGSHIRE, including the Burghs of	3	7	2	1,007	10	–
Falkirk - - - - - - - - -						
Stirling - - - - - - - - -						
SUTHERLANDSHIRE, including the Burgh of	–	13	7	203	15	–
Dornock - - - - - - - -						
WIGTOWNSHIRE, including the Burghs of	1	8	5	426	5	–
Stranraer - - - - - - - -						
Whithorn - - - - - - - -						
Wigtown - - - - - - - -						
TOTAL - - - -	100	–	–	30,000	–	–

Prisons (Scotland.)

A

B I L L

[AS AMENDED BY THE COMMITTEE]

To improve Prisons and Prison Discipline
in *Scotland.*

(Prepared and brought in by
Mr. Fox Maule, the Lord Advocate,
and Lord John Russell.)

Ordered, by The House of Commons, *to be Printed,*
23 *June* 1837.

414.

2 *March* 1837.—7 Will. IV.

A

BILL

For the better Regulation of all Places at which intoxicating Drinks are sold, with a view to diminish the Crime and Misery of which they are the fruitful source.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS it is desirable to provide a better classification of Public-houses; to limit and restrain the issue of Licenses for such Houses; and to enact more defined and efficient Regulations for the same; **Be it therefore Enacted**, by The KING's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same: Preamble.

1. THAT the several descriptions of Public-houses now known by the names of Hotels, Inns, Taverns, Wine Vaults, Spirit Vaults, Dram-shops, Ale-houses, Cider-houses, Beer-shops, and all other places where Spirits, Wine, Cider or Beer are sold by retail, whether by Licensed Victuallers or others, shall, from and after the *commencement of this Act*, be divided into the four following classes; namely, first, Hotels and Inns; second, Taverns and Public-houses; third, Wine and Spirit Vaults; fourth, Beer and Cider Shops.

2. That the following shall be the conditions and regulations to be observed by the Keepers of the several classes of Houses before enumerated.

3. That all Hotels and Inns shall be provided with every requisite accommodation for Travellers and Inmates who may require stabling, bed and board, for any period of time: That they shall be accessible

at all hours of the day and night for Travellers and Inmates residing in the house: That they shall be closed to the entry of all other persons from *Twelve* of the clock at night till *Seven* of the clock in the morning on ordinary days, and be opened to none but Travellers and Inmates during the whole of Sunday: That no Dram-shop or Beer-shop shall be kept by the same landlord, or be attached to the same building; but that all Liquors sold or supplied shall be served within the Hotel or Inn, whether for consumption by persons on the premises, or for supply to persons sending for the same from without.

4. THAT all Taverns and Public-houses shall be provided with the accommodations originally required of Licensed Victuallers, and be ready to furnish food and drink, with suitable apartments for Visitors requiring the same, without the use of stabling or beds: That they shall be closed to the entry of all persons from *Eleven* of the clock at night to *Seven* of the clock in the morning on ordinary days, and be opened to none but Travellers and Inmates during the whole of Sunday: That no Dram-shop or Beer-shop shall be kept by the same landlord, or be attached to the same building, but that all the Liquors sold or supplied shall be served within the Tavern or Public-house, whether for consumption by persons on the premises, or for supply to persons sending for the same from without.

5. THAT all Wine and Spirit Vaults shall be confined to the sale of Wine and Spirits only, and that no portion of these shall be permitted to be consumed on the premises: That the Liquors sold or supplied shall be served over a counter in the ordinary manner of other retail shops generally: That the House shall be situated in a public thoroughfare or highway, and not in any court, yard or alley: That the rooms in which the Liquors are sold or supplied shall be in the front of such house, with their windows and the glass of their doors coming down to within *Three* Feet of the ground on the outside, and shall not be obstructed by boards, blinds or any other devices that may impede the clear and perfect view from without of all that is passing in such rooms: That such Wine and Spirit Vaults shall be closed to the entry of all persons from *Ten* of the clock at night to *Eight* of the clock in the morning on ordinary days, and be open to no classes of persons whatever throughout the whole of the Sunday.

6. THAT all Beer and Cider Shops shall be confined to the sale of Beer, Ale, Porter, Perry, Cider and other similar drinks, not including either Wine or Spirits, and that no portion of such Beer, Cider or other drinks shall be permitted to be consumed on the premises: That the Liquors so sold or supplied shall be served over a counter in the ordinary manner of other retail shops generally: That all Beer and Cider Houses shall be situated in a public thoroughfare or highway,

way, and not in any court, yard or alley: That the rooms in which the Liquors are sold shall be in the front of such house, with the windows and glasses of their doors coming down to within *Three* Feet of the ground on the outside, and shall not be obstructed by boards, blinds or any other devices which may impede the clear and perfect view of all that is passing in such rooms; That such Beer and Cider Houses shall be closed to the entry of all persons from *Ten* of the clock at night to *Eight* of the clock in the morning on ordinary days, and open no classes of persons whatever during the whole of the Sunday.

7. THAT no Benefit Society, Sick Club, or other Association for mutual pecuniary relief in time of need, shall be permitted to hold their periodical or general meetings for the purposes of business at either of the four classes of houses before enumerated; and that no payment of wages to workmen shall be permitted to take place at either of the same.

8. THAT no Grocers, Provision Dealers, or others keeping any description of Store, Shop or House, not included in one or other of the before-named classes, shall sell Beer, Wine, Spirits, or any other kind of intoxicating Liquor by retail, whether to be consumed on the premises or otherwise.

9. THAT all wholesale dealers in Beer, Wine or Spirits, who shall supply not less than *Two* Gallons of each to any single purchaser at a time, not to be consumed on the premises, shall be exempt from the provisions of this Act.

10. THAT the issue and limitation of Licenses for each of the four descriptions of Public-houses authorized to sell by retail Wine, Spirits, Cider or Beer, as before described, shall be regulated in manner following.

11. THAT the Sheriff of every county shall appoint, for such county only, an Officer, to be entitled "The Superintendent of Licenses," whose sole and entire duty it shall be to regulate the issue and transfer of Licenses for Public-houses of each class in the county, subject to his superintendence: That the salary of such "Superintendent of Licenses" shall be fixed by the Sheriff at not less than *Five hundred* Pounds, nor more than *One thousand* Pounds per annum, according to the extent and population of the county, and be paid out of a Fund to be hereafter provided for by this Act: That after his appointment shall have been confirmed by the Magistrates of the county at Quarter Sessions, such Superintendent shall not be removable from his office, unless convicted by indictment, supported by written evidence, or by *Two* competent Witnesses at least, of a positive breach or wilful neglect of duty, or gross partiality in the discharge of his office before a Jury.

12. THAT the Licenses of all existing Public-houses shall be continued to them on the terms paid by the present owners or occupiers of the same at the time of this Act coming into operation, subject only to the following conditions: first, That the occupier or landlord of each house shall send in to the "Superintendent of Licenses" for the county in which such house is situated, a written Notice, stating under which of the four classes before enumerated he intends to place his premises: second, That each of the said landlords shall signify his intention to adapt his house in all particulars to the conditions specified for the class which he may have chosen: third, That he shall take such License for a term of *Seven*, *Fourteen* or *Twenty-one* Years, at his option, furnishing securities for the payment of the annual cost or charge for the same: On the fulfilment of which conditions, the License shall be secured to him by lease for such period, subject to forfeiture only by non-payment of the annual charge, or by the offences hereinafter enumerated as leading to such forfeiture of the same.

13. THAT in order to prevent the further increase of Public-houses of either class beyond certain limits, to be proportioned to the population and wants of the respective towns and districts, and to effect the reduction of the entire number where they may exceed those limits by not issuing any new Licenses to supply the place of those that may fall in or expire by forfeiture, bankruptcy, death or other causes, so long as the number of Public-houses shall continue to be in excess above the population and wants of the town or district according to the limits to be prescribed, the following shall be the Rules by which the issue of all new Licenses from and after the *passing of this Act* shall be regulated:

14. THAT the "Superintendent of Licenses" for each county shall open an office within the court-house or other public building in the county town in which the Assizes shall be held, the expenses of which office, with such clerk or clerks as may be necessary, shall be paid out of the salary of the said Superintendent, as fixed by the Sheriff; and the said Superintendent shall receive at such office all applications that may be presented or transmitted to him in writing for any new Licenses required for Public-houses within the limits of the county, subject to his superintendence.

15. THAT all such written applications shall be duly registered at the said office according to the exact order of their date: Provided always, That such applications shall contain the name of the intended landlord or occupier of the house for which the License is desired, with a specification of the locality of the premises, and the names and residences of *Two* good and sufficient sureties for the payment of the annual cost or charge of the License, and for the amount of such penalties as may be incurred by a breach of any of the provisions of this Act.

16. THAT in granting any new Licenses thus applied for, the Superintendent shall be guided by no other rule than that of priority of date, in the order in which the application was made and received at the office, and registered there accordingly.

17. THAT for the better securing this fairness and impartiality in the granting of Licenses, the register of such applications, with the names of the applicants, the locality of the premises, and the names and residences of the proposed sureties, shall be publicly affixed, in the exact order of their dates, in some part of the Superintendent's office, where it may be open to all parties desirous of inspecting the same, without fee or reward.

18. THAT no new License shall be issued after the *passing of this Act* for either Wine or Spirit Vaults, or for Beer or Cider Houses, but only for Hotels, Inns and Taverns, so as to let the two former classes become gradually extinct, and to restore the Public-houses of the country to their original purpose of Licensed Victualling-houses, where bed and board, and refreshment in meat and drink, may be afforded to all classes requiring the same.

19. THAT no new Licenses for Hotels, Inns or Taverns shall be issued in any town or district (saving only in the excepted cases hereinafter mentioned) where the number of the Public-houses already licensed shall exceed the proportion of Two such houses to every Thousand persons in each parish of towns, according to the latest census of the population, or Two such houses to every Square Mile of distance in country districts.

20. THAT in case any special exceptions as to the numbers of houses proportioned to population or distance, or as to their hours of opening and closing, shall be thought requisite for the wants of public watering-places, or in the neighbourhood of large markets and fairs, or under other local peculiarities for which no general enactment could adequately provide, the Superintendent shall be empowered to state his reasons in writing to the Sheriff of the county in favour of such exceptions, notice of which shall be published in *Two* at least of the public papers of the county, and the same shall be produced before the Magistrates at the first Quarter Sessions held after such representation shall have been made to the Sheriff, when such reasons shall be openly and publicly read; and leave shall be given to the inhabitants of such places, or to any other parties, to object to the same; after which the Magistrates shall decide between the parties; and in the event of their decision being in favour of such exceptions, it shall be lawful for the said Superintendent to grant such enlargement of numbers or extension of hours in such localities, either temporarily or permanently, as the nature of the case may seem to him to require: Provided always, That public notification of such enlargement and extension, with the reasons

for the same, shall be published for general information in *Two* at least of the public papers of the county at the time.

21. *That the annual charge for all new Licenses issued after the passing of this Act shall be, for the sale of Beer, Ten Pounds; for the sale of Wine, Twenty Pounds; for the sale of Spirits, Fifty Pounds; but this increased annual charge shall not affect existing Licenses up to the period of Seven, Fourteen or Twenty-one Years, for which they may be secured by their present possessors, according to the manner before described.*

22. That all existing Licenses which may be so secured according to the terms of years and at the present annual charge as already described, shall be considered to be the property of the owners of the houses for which they were originally granted, until the expiration of the *Seven, Fourteen* or *Twenty-one* Years for which they may be secured as aforesaid, subject only to forfeiture for non-payment of the annual charge, or for offences committed within the houses as hereinafter detailed.

23. That all new Licenses which may be issued after the *passing of this Act* shall be considered to be the personal property of the individual to whom they may be granted, subject only to the conditions before named: Provided always, That such Licenses shall be used for those houses only for which they were originally taken out, and that they shall not be transferred to any other persons, nor used for any other houses, without the permission in writing of the Superintendent, and his written approval of the successors in case of a change of persons, and of the new localities in case of a change of premises.

24. That such new Licenses may be taken by the parties for a term of *Seven, Fourteen* or *Twenty-one* Years respectively, in the same manner as the existing ones, subject however to the same conditions of annual payments, sureties and liability to forfeiture for offences incurring that penalty.

25. That changes from any one of the two last classes of houses enumerated (Numbers 3 and 4) may be made to either of the two first classes (Numbers 1 and 2) by conforming to the conditions specified for each; and in the event of any person thus desiring to convert a Beer-shop or a Dram-shop into a Tavern or a Hotel, and to furnish all the requisite accommodations enumerated in the classification previously given, such person, as being the holder of an existing License, shall in all cases have the preference over a new applicant for the same.

26. That the first day for the issue of any new Licenses, as well as for the renewal of the existing ones, according to the terms before prescribed,

scribed, shall be the *First* day of *January One thousand eight hundred and Thirty-eight*, and the renewal of all such Licenses as it may be thought proper by the Superintendent for the time being to renew within the limits of the population and distances before described, shall take place on the *First* day of *January* in every *Seventh*, *Fourteenth* or *Twenty-first* Year after that date, as the previous Licenses may respectively expire.

27. THAT the amount received by the Superintendents for the issue of all Licenses within the county in which they respectively act, shall be paid over to the Sheriff of such county, or to the Receiver General, to form a Fund for the payment of all the expenses attendant on the working of this Act, under the name of "The County Licensing Fund," the surplus of which shall be remitted on the *Fifth* day of *April* in every year to the Chancellor of the Exchequer for the Treasury, under the usual securities and provisions for the collection of the Public Revenue.

28. THAT no Licenses shall be required for the establishment of Temperance Hotels, or houses in which all the accommodations of Hotels, Inns and Taverns may be had; provided that no Cider, Beer, Wine or Spirits shall be sold or supplied in such houses, and that no limitation of numbers or hours shall be placed on such Temperance Hotels, Eating-houses, Coffee-houses, or other places of public refreshment in food or drink, where neither Cider, Beer, Wine, Spirits, nor any other kind of intoxicating drink is sold or supplied.

29. THAT the "Superintendent of Licenses" in each county shall be empowered to appoint within the same a body of Inspectors, to be called "Inspectors of Public-houses," not exceeding the proportion of *One* such Inspector to every *Thirty* licensed Public-houses within the towns, or *One* Inspector to every *Twenty* such houses in country districts.

30. THAT these Inspectors shall be men between the ages of *Thirty* and *Fifty*, of good moral character, and fit and proper for the duties they will be required to perform; that they shall not be engaged in any trade or business; that they shall wear a uniform dress for distinction as public officers, and that they shall be paid a salary of not less than *Fifty* Pounds, and not exceeding *One hundred* Pounds per annum each, from the County Licensing Fund.

31. THAT it shall be the duty of these Inspectors to visit all the Public-houses in their district at least *Once* in every *Twenty-four* Hours, with such changes of rounds and variations of hours as to render it uncertain as to what particular individual may be expected to visit any particular house, or at what given hour his visit of inspection may be made.

32. That such Inspectors shall be empowered to enter the Public-houses of each class within their district at all hours of the day or night during which such houses shall be open, and to remove from thence all persons found drunk in the rooms, excepting only such persons as shall be Inmates residing in or occupying beds within the premises at the time, and all persons engaged in brawls or quarrels that disturb the peace, and are likely to lead to personal violence, at any period of the day or night at which such brawls may be observed.

33. That the Inspectors shall also be empowered to apprehend all persons whom they may find drunk in the public streets, of whatever rank or condition in life.

34. That the persons apprehended in a state of drunkenness, as well as those taken in brawls and quarrels, shall be conveyed to the nearest place of safe custody belonging to the town or district in which they may be so apprehended, and kept there in safe custody and solitary confinement, as far as practicable, with a total abstinence from all intoxicating drinks, until *Noon* of the following day, when they shall be brought up to the office of the Chief Magistrate of Police, or other chief civil authority of the town or district, for hearing and judgment, and subjected, on conviction by *One* competent Witness, in addition to the testimony of the Inspector, to the penalties hereinafter named.

35. That persons apprehended under the charge of being drunk at the time, and against whom such charge shall not be sufficiently proved by *One* competent Witness in addition to the Inspector, shall have their remedy against the Inspector by the summary jurisdiction of the Magistrates before whom the charge is brought, who shall, after hearing the case, award such penalty, with costs, against the Inspector, as the nature of the case may seem to them to warrant.

36. That if any Inspector shall be convicted by the testimony of *Two* competent Witnesses before a Magistrate of having been engaged in drinking any kind of intoxicating liquors in any Public-house within his district of visiting, whether the same shall have been bought and paid for by himself, or offered to him as a gratuity by the landlord or servants of the house, or by any company within the same, or of receiving any fee, gift or reward from either of the parties named, he shall forfeit his appointment, and be rendered incapable of ever holding the same office again: Provided always, That no such Inspector shall be dismissed from his office without having been previously convicted in manner aforesaid, either of some specific offence, or of a wilful neglect or open violation of duty in the discharge of his office.

37. That no information, either against the keepers of licensed or unlicensed houses, or against persons found in a state of drunkenness

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or riot, either in the public streets or within such houses, shall be received through common informers, but the Magistrates shall convict only on evidence received through the Inspectors and *One* other competent Witness, who may corroborate their testimony.

38. THAT no process of law shall be allowed to Landlords for the recovery of any debts contracted in their houses for Wine, Spirits, Beer, Cider or other intoxicating liquors furnished to visitors not actually residing in or having bed and board on the premises at the time of those articles being supplied.

39. THAT persons convicted before a Magistrate on the evidence of an Inspector and *One* other competent Witness of keeping an unlicensed house, or selling, without the requisite legal authority, either Cider, Beer, Wine, Spirits, or any other intoxicating liquors, shall be subject to the seizure and confiscation of all the goods found on their premises; and both the employer and agent by whom such illegal sale shall have been authorized and carried on, shall be liable to imprisonment for a period not exceeding *Three* Months.

40. THAT persons convicted before a Magistrate, on the evidence of an Inspector and *One* other competent Witness, of being found drunk in the public streets, or within the Public-houses visited by them in their usual rounds, shall be subjected to the following penalties: For the first offence, if the person be a labourer or artisan, the sum of *Five* Shillings; if the person be a master tradesman or shopkeeper, the sum of *Ten* Shillings; and if a person be a member of either of the liberal professions, or in the rank of life usually denominated gentry, the sum of *Twenty* Shillings: For the second offence, a fine of *Double* the amount of the preceding to persons of each class respectively: For the third offence, a fine of *Treble* the amount of the first to persons of each class respectively: For the fourth and every other subsequent offence, a fine of *Twenty* Shillings to the labourer, of *Five* Pounds to the tradesman, and of *Ten* Pounds to the gentleman.

41. THAT persons who may have been convicted of drunkenness, and fined for the same within any period between the time of issuing a Writ for any new Election and the close of the poll for the same, shall not be entitled to vote at such Election; and that persons convicted as aforesaid for the fourth time, and fined for the same between the periods of any two such Elections, shall have their names registered in a list, to be called "The List of Habitual Drunkards," which shall be publicly affixed on the doors of every church and chapel within the town or parish in which the offender resides, and his political and municipal franchise shall be suspended until a period of *Three* Years shall have elapsed without any such conviction of drunkenness being recorded against him.

42. That Publicans or Keepers of Houses for the sale by retail of Cider, Beer, Wine, Spirits, or any other intoxicating drinks, in either of the four classes before enumerated, shall, on conviction before a Magistrate, on the evidence of an Inspector and *One* other competent Witness, of either of the offences enumerated below, be subject to the penalties herein annexed to the same; (videlicet) first, For opening their houses earlier in the morning, or keeping their houses open later at night, than the hours prescribed for each by this Act, and for permitting them to be opened, contrary to the provisions of the same, during any portion of the Sunday; second, For selling or supplying any article of intoxicating drink, otherwise than those specified and permitted to be sold and supplied in the respective class to which the house may belong; third, For permitting persons to remain on their premises in a visible state of intoxication; fourth, For suffering persons to engage in brawls and fights without sending for the Inspector, Constable or other Officer of Police, to eject them from the house; fifth, For preventing the entry of the Inspectors at any hour of the day or night when any company may be within the premises, or for obstructing them in any way or manner in the discharge of their duties: Every Publican or Landlord duly convicted as aforesaid of either one or more of the above enumerated offences, shall for the first offence of either kind be subject to a penalty of *Five* Pounds; for the second offence of either kind, a penalty of *Ten* Pounds; for the third offence of either kind, a penalty of *Twenty* Pounds; and for the fourth offence of either kind, he shall incur an entire forfeiture of his License, and be rendered incapable of continuing the business of a Publican for a period of *Seven* Years from the date of such forfeiture.

43. That the recovery of all penalties imposed by this Act shall, if not paid upon conviction, be enforced by warrant of the Magistrates, and by distress and sale of the goods of the offender, with costs; or in default of proceeds, the parties offending may be subjected to imprisonment for a term not less than *Seven* nor more than *Twenty-one* Days, according to the amount of the penalty incurred.

44. That the amount of all seizures and confiscation of goods in houses engaged in the illegal sale and supply of intoxicating drinks, as well as of all penalties recovered for offences of drunkards and of publicans, shall be paid into the Court before which the conviction shall take place, in the name and to the account of the "Superintendent of Licenses" for the county, to be added to the County Licensing Fund.

45. That all words in this Act shall be construed in their true, obvious and most general meaning, without being limited to exact technical or local interpretation: That the word "Town" shall be understood to mean City, Borough, Town, Port, or any other place

usually so denominated: That the words "Landlords," "Publicans," and "Keepers of Licensed Houses," as well as "Drunkards," "Offenders," "Persons" and "Individuals," shall be understood to apply to persons of either sex, and be construed to mean either men or women, or both, as the case may require: That the word "Traveller" shall be construed to mean any person not residing within *Seven* statute Miles of the town, and being on a journey through or halting or resting at the same: That the word "Inmate" shall be construed to mean any person actually residing and lodging in any house, either as a member of the family or servant of the same, or lodger who shall be in the actual occupation of a bed-room upon the premises: That the word "Magistrate" shall be construed to mean Mayor, Bailiff, Boroughreeve, Constable, County Magistrate, Justice of the Peace, Police Magistrate, or any other chief civil authority within the town or district having jurisdiction for the punishment of offenders and infliction of penalties within the same.

46. THAT this Act shall commence and take effect from the *First* day of *January One thousand eight hundred and Thirty-eight;* that it shall be deemed and taken to be a Public Act; and that it shall extend to every part of Great Britain and Ireland.

Public-house Regulation.

A

BILL

For the better Regulation of all Places at which intoxicating Drinks are sold, with a view to diminish the Crime and Misery of which they are the fruitful source.

(Prepared and brought in by
Mr. Buckingham, Mr. Tulk, and Mr. Wyse.)

Ordered, by The House of Commons, *to be Printed,*
2 *March* 1837.

84.

2 *March* 1837.—7 WILL. IV.

A

BILL

For the Establishment of Public Walks and Play Grounds, and of Public Institutions, Libraries and Museums, for the purpose of promoting the Health, Morals, Instruction and Enjoyments of the People.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble.

WHEREAS it is expedient to encourage and promote the formation of Public Walks, Play Grounds, Baths, and Places of healthy Recreation and Amusement in the open air, and the establishment of Public Institutions for the diffusion of Literary and Scientific Information, including Libraries, Museums, and Places of Public Meeting for Instruction and Entertainment, in such Cities, Boroughs and Towns as may require the same; **Be it therefore Enacted**, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT in all cases in which *Fifty* Rate-payers of any City, Borough or Town, or of any Parishes or Wards within the same, shall sign and send a Requisition to the Mayor or other chief civil authority of such Town, requesting him to call a Public Meeting of the Rate-payers of the same, for the purpose of considering the expediency of establishing such Public Walks and Public Institutions as before described, it shall be lawful for the said Mayor so to do; and in the event of his declining to accede to such Requisition when duly signed, and presented to him by any *Three* or more of the Requisitionists by whom the same may have been signed, or in case of his neglecting to comply with their request within *Three* clear Days after its delivery to him, it shall then be lawful for the said *Three* Requisitionists themselves to call such Public Meeting of the Rate-payers, in any usual place of

1.
Upon Requisition of Fifty Rate-payers, Meeting to be held for purposes of Act.

assembling within the Town, after giving *Three* clear Days' notice of the same to the Mayor.

2.
Meeting to decide whether Public Walks, &c. should be established.

And be it Enacted, That such Public Meeting being assembled, the question shall be publicly proposed by the Chairman of the same, and submitted to the open discussion of the Rate-payers then present, as to whether it is expedient that such Public Walks or Public Institutions as before described should be formed and established for the use of the Town in which such Public Meeting may be held; the costs of such undertaking to be chargeable, by way of assessment, on the rentals of the premises held and occupied by the Inhabitants of the same.

3.
Decision to be made by Vote.

And be it Enacted, That the decision of this question shall be submitted to the vote, at the close of such discussion, by a show of hands in the usual manner, and the declaration of the Majority be publicly made on the spot by the Chairman of the Meeting; but in the event of a Poll being demanded by any *Three* Rate-payers then present at the Meeting, such Poll shall be taken on the spot, by counting the numbers for and the numbers against the proposed Resolution.

4.
Rate-payers to be bound by the decision of the Meeting.

And be it Enacted, That in the event of a Majority, composed of *Two-thirds* of the Rate-payers then present at the Meeting, who may vote on the question, being found by such Poll to be in favour of the proposed Resolution, the whole of the Rate-payers of the Town shall be bound by the act of such Majority, and be liable to contribute, in the proportions of their respective rentals, to such Assessments as may be subsequently levied by the proper authorities to carry the Resolution into effect, within the limited amount of rating hereinafter to be prescribed.

5.
Committee to be elected.

And be it Enacted, That within *Three* clear Days after such decision of the Majority as aforesaid, the Rate-payers shall proceed to elect, from among the resident Householders of the Town, a Committee, to consist of *Twenty-one* Persons, to be called "The Committee of Public Recreation;" to whom shall be confided the direction of all matters necessary for the execution and management of the Public Works to be formed and established under the powers of this Act; and in whom all lands which may be purchased, with the improvements made upon the same, for the purposes aforesaid, shall be vested, as Trustees ex officio, to hold and administer the same for the use and benefit of the Inhabitants generally.

6.
Mode of Election.

And be it Enacted, That in the election of Members of the Committee, the mode followed shall be the same as that which is or may be in ordinary use in such Towns respectively for the election of Municipal or Parish Officers, as the case may be: Provided always,

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always, That no Persons but those who are actually Rate-payers of such Towns shall be permitted to vote at such elections, and that the polling for the whole of the Persons nominated as Members of such Committee shall not be kept open longer than *Six* Hours, or from *Ten* of the clock in the forenoon to *Four* of the clock in the afternoon of one single day: And provided also, That the Chairman of the Public Meeting at which the original Resolution was carried, whether the Mayor or otherwise, or a Deputy appointed by the same, shall be the Returning Officer, to preside over and declare the result of such election, by stating publicly the numbers voting for each of the several Persons nominated, and pronouncing the due return, as Members of the Committee, of the *Twenty-one* who may have received the greatest number of votes in their favour.

7.
Persons contributing a certain Sum to be Governors.

And be it Enacted, That in order to encourage the wealthy Inhabitants of Towns and of the neighbourhood to come forward voluntarily to assist in the support of such Public Walks and Public Institutions, the rank of Governor for Life shall be conferred (without election) on every Person contributing the sum of *One hundred* Pounds as a donation, and the rank of Annual Governor shall be conferred (without election) on every person contributing *Ten* Pounds per annum as subscription, so long as such annual subscription shall be continued; and such Life Governors and Annual Governors shall enjoy and exercise all the privileges of elected Members of the Committee.

8.
One-third part of the Committee to go out annually.

And be it Enacted, That *One-third* of the Members of the Committee shall retire annually; in the first and second year the *Seven* who were elected by the fewest number of votes; and in every succeeding year the *Seven* who have been longest Members; and the filling up of the vacancies occasioned by such retirements, or by deaths, shall be by open election, in the same manner as that by which they were originally chosen: Provided always, That the Members retiring by annual rotation may be eligible to be re-elected to the same office.

9.
Committee to determine as to Designs, Plans and Estimates.

And be it Enacted, That the Committee of Public Recreation being thus formed, shall have power to procure Designs and Plans for the Public Walks and Public Institutions required, with Estimates of their cost, and to determine as to the expediency of forming and establishing only a part or the whole of the several Works enumerated, as to their judgment may seem meet: Provided always, That the competition for such Designs, Plans and Estimates shall be open to all Persons offering to furnish the same, and that the selection or preference of any of those over others for actual adoption shall be left entirely to the judgment of the Committee.

10.
Committee to have Power to borrow Money, within certain limits.

And be it Enacted, That the amount of capital required for the purchase of such Ground, and the completion of such Works as may be determined to be laid out and erected thereon, having been ascertained, it shall be lawful for the said Committee to borrow the requisite sum for that purpose; and such sum shall be charged upon the Assessment hereby authorized to be raised for the repayment of the same: Provided always, That such sum shall in no case exceed in its whole amount the proportion of *Ten* Shillings to every Inhabitant of such Town, or the Parishes or Wards of the same, on behalf of which such Works have been undertaken, according to the last official census of the population of the same, previous to the formation of such Public Works therein.

11.
Mode of paying Interest, and redeeming the Principal.

And be it Enacted, That the annual payment of the interest, and the gradual redemption of the principal of such sum so borrowed, shall be provided for in manner following; a Public Stock or Fund shall be created, to be open for the investment of money, in the manner of other Public Funds, and transferable by Shares of *One hundred* Pounds each, bearing interest at not more than *Five* per centum per annum, and redeemable in *Twenty* Years, by the paying off of *Five* per centum of the principal in every year, so that at the end of *Twenty* Years the whole of the Public Works and Public Institutions connected with the same, may be free of any incumbrance or charge on the funds of the Town.

12.
Committee authorized to levy an Assessment, within certain limits.

And be it Enacted, That for the payment of the said interest on such capital, and the annual redemption of *Five* per centum of the principal, as before described, the said "Committee of Public Recreation" shall be authorized to levy a half-yearly Assessment on the rental of all the dwellings and other premises usually paying rates within the Town, or the Parishes or Wards of the same, as aforesaid; such Assessment, however, not to exceed in any case the sum of *Three-pence* in the Pound on each Assessment, or *Sixpence* in the Pound on the Rental, within the entire year.

13.
To be collected the same as other Rates.

And be it Enacted, That the collection and recovery of the Sums assessed by order of the "Committee of Public Recreation" for the purposes aforesaid, shall be effected in the same manner in which the Rates for other local purposes are collected and recovered within such Towns respectively.

14.
Committee may make other Rules for preservation of Order; and fix Rates of Admission.

And be it Enacted, That the said Committee may from time to time frame and pass such Rules and Regulations as they may deem necessary for the preservation of order and decorum, and fix such moderate rates of payment for admission to the several parts of the Public Walks and Public Institutions, as in their judgment may seem necessary to cover the current expenses of the same; keeping in view, however, the expediency of limiting such rates of admission to the lowest amount compatible with the comfort of the Visitors themselves, and the preservation of the whole Establishment in a state of order and tranquillity throughout.

15. Committee may form Auxiliary Establishments where such are required.

And be it Enacted, That in any Cities, Boroughs and Towns in which the extent of the population may be such as to require more than one of either of the Establishments before described, it shall be lawful for the said "Committee of Public Recreation" to form Auxiliary Establishments of the same description, in such parts of the Town, or in such Wards or Parishes of the same, as may by them be deemed most eligible for the accommodation of the Inhabitants thereof: Provided always, That the whole capital to be expended in the formation of such Auxiliary Establishments shall not exceed the proportion of amount to population already prescribed; and that the whole of the assessments for the payment of the interest and redemption of the capital thus expended shall not exceed the amount to which it is already limited by this Act: And provided also, That the management and regulation of all such Auxiliary Establishments within the neighbourhood of the same City, Borough or Town, shall be under the direction of the "Committee of Public Recreation," as aforesaid, subject to such rules and provisions as are hereinbefore enacted, and to such other orders and regulations as the said Committee may from time to time think fit to issue for the government of the same.

16. Corporate Bodies, &c. may dispose of Lands suitable for the purposes of this Act.

And be it Enacted, That in any case in which particular spots of Land may be deemed especially eligible for the formation of such Public Walks and Public Institutions, but the same may belong to corporate bodies, or be under the management of trustees, or be held by certain tenures which may prevent their being sold without special powers being given for this purpose; it shall be lawful for the owners or trustees of such land, whether bodies corporate or otherwise, to sell, dispose of, or exchange the same, on such terms as may be mutually agreed on by all the contracting parties: Provided always, That no such sale or exchange of lands shall be enforced or effected otherwise than by and with the full consent of all the parties having legal rights and interests in the same; and that the conveyances of such sale or exchange shall be made with all due form of law.

17. Committee may grant Loans for the Improvement of Walks, &c. already in existence.

And be it Enacted, That in any case in which Public Walks or Public Institutions already exist in the neighbourhood of any Town, or in any Parish or Ward of the same, and for the maintenance and support of which any funds have been bestowed, either by grant, donation, legacy or bequest, or are authorized to be raised by any general or local Act of Parliament, and the same shall be found insufficient for the purposes required, it shall be lawful for the "Committee of Public Recreation," appointed in manner aforesaid, in any Town, Parish or Ward in which such case shall occur, to afford such aid, by way of loan, out of the funds raised by virtue of this Act, and within the limits fixed by the same, as the case may to them seem to require: Provided always, That the repayment of the sums so advanced, at the rate of *Five* per centum per annum of the principal, and the payment of interest on the same, at the rate of not more than *Five* per centum per annum, be secured on the property of such Public Walks and Public Institutions, as well as on the assessment of the Rate-payers of the Town, Parish or Ward in which the same may be situated, within the limited amount of rating already prescribed: And provided always, That in every such case the Public Walks and Public Institutions thus improved by aid from the funds as aforesaid, shall be placed under the direction and management of the "Committee of Public Recreation" for the Towns in which the same may be situated, and be subject to all such rules and regulations as may by them be thought fit to be issued, within the powers given to them by this Act.

18.
Minutes of Proceedings and Accounts to be kept.

And be it Enacted, That a Record shall be kept of all the Minutes of the said "Committee of Public Recreation," with Reports of their Proceedings at such Meetings as they may hold from time to time, for the purposes of business, and that such Minutes and Reports shall be signed by at least *Seven* of the Members present at such Meetings, as forming the quorum of such Committee, without the presence of which number, no Resolution shall be valid or binding upon the rest; and that an Account shall be also kept of all receipts and disbursements connected with the Public Works authorized to be undertaken by this Act, and with the business of the said Committee within the year.

19.
Treasurer and other Officers to be appointed.

And be it Enacted, That for the purposes aforesaid, the said Committee shall be authorized to appoint and employ a Treasurer, Auditors, Clerks, Collectors, and such other Officers and Persons as may to them seem necessary to carry on the business of the Committee, with such salaries, and under such securities, as may be proportioned to the responsibility vested in them respectively, and under full liability to such Rules and Orders as the Committee may think proper to frame for the regulation of their conduct in the execution of their duties.

20.
Report of Proceedings and Accounts to be published annually.

And be it Enacted, That in the month of *January* in every year, a Report of the past year's progress and proceedings shall be published, under the signature of the President or Chairman of the Committee for the time being, and countersigned by the Treasurer, Auditor and Clerk,

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Clerk, containing detailed Accounts of all Receipts and Payments, as well as all Minutes of the Proceedings of the said Committee; and that a printed copy of such Report shall be supplied free of expense to every Rate-payer who may have been assessed for the purposes aforesaid, on his applying for the same.

21. Copy of Annual Report to be kept for public inspection.

And be it Enacted, That a Copy of such Annual Reports, well and strongly bound, in a separate Volume, shall be forwarded, free of expense, to the Office of the Secretary of State for the Home Department, to the Library of the British Museum, and to the Libraries of the Houses of Lords and Commons, for the inspection of those who may desire to watch the progress and proceedings of such establishments for Public Recreation in different parts of the Kingdom.

22. Committee not to be liable for Expenses incurred before their formation.

And be it Enacted, That the expenses of all the preliminary proceedings, previous to the formation of "The Committee of Public Recreation," in manner before described, shall be borne by the Requisitionists, and provided for by public voluntary subscriptions, or such other means (not compulsory) as they may see fit; but in the event of the original Resolution submitted to the Public Meeting being carried in the affirmative, and the Committee being duly appointed, the expenses of such Meeting and of all subsequent proceedings shall then be defrayed out of the funds to be levied by the general assessment for which this Act provides.

23. Meetings upon Requisition not to be held more than once a year.

And be it Enacted, That in the event of more than *One-third* of the Rate-payers of any Town assembled at a Public Meeting convened as aforesaid, voting against the original Resolution by a Poll taken at such Meeting, and thereby declaring it to be inexpedient to adopt, for the time being, any further proceedings as to the formation of any Public Walks or Public Institutions, and for the use of the Inhabitants of the same, it shall not be lawful to make any other requisition for the purpose of calling any Public Meeting in the same Town, to discuss the same question, within a period of less than *One* Year from the time of such decision.

24. Explanation of Words used in this Act.

And be it Enacted, That in the construction of this Act, the word "Town" shall be construed to mean City, Borough, Town, or any other place usually understood by that term; and the word "Mayor" shall be construed to mean Mayor, Boroughreeve, Bailiff, Constable, Senior Magistrate, or chief civil authority, by whatever title usually recognized within the Town or Place in which his authority is exercised; and that the words "Rate-payers" shall be construed to mean all Persons who have, for the period of *One* Year at the least, paid the usual Assessments levied on the Rate-payers of the Town or Parish in which they reside.

25. Commencement of this Act. And be it Enacted, That this Act shall commence and take effect from and after the *First* day of *January One thousand eight hundred and Thirty-eight.*

26. Act to extend to Great Britain and Ireland. And be it Enacted, That this Act shall be deemed and taken to be a Public Act; and shall extend to every part of Great Britain and Ireland.

Public Walks and Institutions.

A
BILL
For the Establishment of Public Walks and Play Grounds, and of Public Institutions, Libraries and Museums, for the purpose of promoting the Health, Morals, Instruction and Enjoyments of the People.

(Prepared and brought in by
Mr. Buckingham, Mr. Tulk and
Mr. Brotherton.)

Ordered, by The House of Commons, *to be Printed,*
2 *March* 1837.

83.

27 *June* 1837.—1 VICT.

A

BILL

For the Consolidation of the Boards of First Fruits, Tenths, and Queen Anne's Bounty.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble.

WHEREAS her most gracious Majesty Queen ANNE, in her Royal Bounty to the Poor Clergy of the Church of England, and pursuant to and by virtue of an Act of Parliament made in the second year of her said Majesty's reign, intituled, "An Act for making more effectual her Majesty's gracious intentions for the Augmentation of the Maintenance of the Poor Clergy, by enabling her Majesty to grant in perpetuity the Revenues of the First Fruits and Tenths, and also for enabling other Persons to make Grants for the same purpose," did in and by her Letters Patent, under the Great Seal of England, bearing date the Third day of November in the third year of her said Majesty's reign, make, nominate, constitute and appoint the persons therein named to be one body politic and corporate, by the name of "The Governors of the Bounty of Queen Anne for the Augmentation of the Maintenance of the Poor Clergy," with such powers and authorities as are therein mentioned and expressed; and did in and by the said Letters Patent give and grant unto the said Governors of the Bounty of Queen Anne for the augmentation of the maintenance of the Poor Clergy and their successors, all the revenues of the First Fruits and yearly perpetual Tenths of all dignities, offices, benefices and promotions spiritual whatsoever payable to her said Majesty, her heirs and successors, by virtue of any Act or Acts of Parliament whatsoever, and all arrears of the said First Fruits and Tenths (except as therein is excepted), to be applied and disposed of by the said Governors thereby constituted to and for such ends, intents and purposes as in and by the said Letters Patent are contained and directed:

And whereas by virtue of an Act of Parliament made and passed in the first year of the reign of Queen ELIZABETH, intituled, "An Act for the Restitution of First Fruits to the Crown," the said revenues of First Fruits and yearly perpetual Tenths are within the order, survey, rule and governance of her Majesty's Court of Exchequer:

And whereas his Majesty King CHARLES the Second, by Letters Patent, under the Great Seal of England, bearing date the Twenty-fourth day of January in the thirty-first year of his reign, did give and grant unto Marmaduke Gibbs, Esquire, his heirs and assigns, the office of Remembrancer of First Fruits and Tenths in his Majesty's Court of Exchequer, to hold the said office unto the said Marmaduke Gibbs, his heirs and assigns, by himself or by his or their sufficient deputy or deputies, for ever, immediately and so soon after the date of the said Letters Patent as the said office should become vacant, as therein mentioned, and which soon afterwards happened, upon trust that he the said Marmaduke Gibbs, his heirs and assigns, should stand seised of the said office with the wages, fees and emoluments thereof (except as therein mentioned), for Henry Duke of Grafton, his heirs and assigns, as in the said Letters Patent is mentioned:

And whereas by an Act passed in the third year of the reign of King GEORGE the First, intituled, "An Act for the better collecting and levying the Revenue of the Tenths of the Clergy," it was amongst other things enacted, that from and after the Twenty-sixth day of December then last past, there should be one Collector or Receiver of the said perpetual yearly Tenths of all Dignities, Offices, Benefices and Promotions spiritual whatsoever, granted to the said Corporation of the Governors of the Bounty of Queen Anne for the augmentation of the maintenance of the Poor Clergy by the said first-recited Act and Letters Patent (which had not been legally discharged by any Act or Acts since made, or otherwise,) from time to time to be appointed by his Majesty, his heirs and successors, by his or their Letters Patent under the Great Seal of Great Britain, as in the said Act now in recital is mentioned; which said Collector or Receiver should be and was thereby charged and chargeable to levy, collect and receive all such sums of money wherewith all and every such Dignities, Offices, Benefices and Promotions spiritual were charged and chargeable for and towards the payment of the said perpetual yearly Tenths; and should pay and content the said sums of money yearly into the receipt of his Majesty's Exchequer at Westminster, in such manner and form as was thereinafter mentioned:

And whereas under or by virtue of the several Acts and Letters Patent hereinbefore mentioned or referred to, and other Acts of Parliament and Letters Patent of the Crown, the said revenue of First Fruits is now collected and received in a certain Office, called the Office of First Fruits, which Office is a branch of the said Court of Exchequer, and consists of four Officers; videlicet, a Remembrancer of First Fruits and Tenths, who holds his office in fee under or by virtue of the said Letters Patent of King CHARLES the Second, a Collector or Receiver, and two sworn Clerks; and the revenue of yearly Tenths is, in the first instance, collected and received by a Collector or Receiver, who holds his office under or by virtue of the said Act of the third year of King GEORGE the First, or Letters Patent granted in pursuance thereof, and has two Clerks for his assistance in the business of such collection and receipt; and the said revenue of yearly Tenths is from time to time paid over by such Collector or Receiver thereof to the said Collector or Receiver of First Fruits, who from time to time pays all the monies received by him, as well for First Fruits as for Tenths, into the Bank of England, to the account of Her Majesty's Exchequer; and the same monies, or the amount thereof are or is afterwards from time to time paid to the Treasurer for the time being of the said Governors of the Bounty of Queen Anne for the augmentation of the maintenance of the Poor Clergy:

And whereas the names of the present officers employed in the said offices of First Fruits and Tenths for the collection, receipt and payment in manner aforesaid of the said revenue of First Fruits and yearly perpetual Tenths, and the average yearly amount of the emoluments of all such officers respectively, arising from salaries and fees, or otherwise (as stated by such officers respectively,) and the annual expenses of the said offices for rent, salary to an office keeper, stationery, coals, candles and other incidental matters, are set forth in the Schedule to this Act, and amount in the whole to the yearly sum of Two thousand and sixteen Pounds, Eighteen Shillings and Eleven Pence:

And whereas the collection and receipt of the said First Fruits and Tenths by the said several officers respectively, and the payment of the same into the Bank of England to the account of Her Majesty's Exchequer, and the subsequent payment thereof to the Treasurer of the Governors of the Bounty of Queen Anne, as hereinbefore mentioned, is unnecessarily circuitous, complicated and expensive; and it is therefore expedient that the said office of Remembrancer of First Fruits and Tenths, and the said several offices of Collectors or Receivers of First Fruits and Tenths, and the Clerkships attached to the same offices respectively, should be abolished, and that the collection and receipt, as well as the expenditure and application of the whole revenue of First

Fruits and Tenths should be placed under the management of the said Governors of the Bounty of Queen Anne, and the Treasurer for the time being appointed by them, and under their immediate control, by which means the collection and receipt of the said First Fruits and Tenths and the proceedings to recover and enforce the payment thereof may be rendered more simple and less oppressive to the Bishops and Clergy paying the same, and the expenses attending such collection and receipt may be greatly lessened, and the clear revenue of First Fruits and Tenths be consequently increased for the augmentation of the maintenance of the Poor Clergy, as directed by the said Letters Patent of her said Majesty Queen ANNE:

1.
Abolishing Offices of First Fruits and Tenths.

BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the *One thousand eight hundred and Thirty-* the said office of Remembrancer of First Fruits and Tenths, the said offices of Collectors or Receivers of First Fruits and Tenths respectively, and the several Clerkships and other offices attached or belonging thereto respectively, shall be and the same are hereby abolished.

2.
Books, &c. belonging to abolished Offices to be delivered up to the Treasurer of Queen Anne's Bounty.

And be it Enacted, That the several records, deeds, books, accounts, papers, vouchers and other documents whatsoever of or concerning the duties and business of the said several offices respectively so to be abolished as aforesaid, shall on or before the said *One thousand eight hundred and Thirty-* be delivered by the several officers or persons now having the custody or possession of the same into the hands and possession of the Treasurer for the time being of the said Governors of the Bounty of Queen Anne, at his office for the time being in the city of London or Westminster, to be by such Treasurer for the time being duly kept and preserved in his said office, subject nevertheless to such rules, orders and regulations as the said Governors of the Bounty of Queen Anne shall or may from time to time ordain or make touching the same; and that the Barons of Her Majesty's Court of Exchequer shall make such order or orders as to them may seem meet, for the delivery of the said several records, deeds, books, accounts, papers, vouchers and other documents to the said Treasurer for the time being of the said Governors of the Bounty of Queen Anne as aforesaid.

3.
The Treasurer of Queen Anne's Bounty, to be the sole Collector of the First Fruits and Tenths.

And be it Enacted, That from and after the said day of *One thousand eight hundred and Thirty-* the Treasurer for the time being of and appointed by the said Governors of the Bounty of Queen Anne for the augmentation of the maintenance of the Poor Clergy, shall be the one and only Collector or Receiver of all the said Revenues of First Fruits and yearly perpetual Tenths of all dignities, offices, benefices and promotions spiritual whatsoever, which are now or shall hereafter be or become payable under or by virtue of any Act or Acts of Parliament, or otherwise howsoever, and all present and future arrears of the same Revenues of First Fruits and Tenths respectively; and that the monies to be received by such Treasurer for the time being of the said Governors of the Bounty of Queen Anne shall be from time to time paid and disposed of and accounted for by such Treasurer in the same manner as the monies which would have been received by him for or in respect of such Revenues, in case this Act had not been made, would have been paid and disposed of and accounted for.

4.
Alteration in the mode of collecting First Fruits and Tenths, not to affect the remedies for compelling payment.

Provided always, and be it Enacted, That the enactments hereinbefore contained, making the said Revenues of First Fruits and Tenths payable immediately to the said Treasurer for the time being of the said Governors of the Bounty of Queen Anne, instead of being as heretofore first paid into Her Majesty's Exchequer, shall not take away, lessen, defeat, prevent or in any way affect or alter any writ, process or remedy whatsoever heretofore in use in Her Majesty's name in Her Majesty's said Court of Exchequer, or otherwise, for the recovery or compelling payment of the said Revenues of First Fruits and Tenths, or the arrears thereof, or the penalties for the non-payment of the same; but that all such writs, process and remedies shall and may be issued, sued and prosecuted by or in the said Court of Exchequer in the name of Her said Majesty, or otherwise, and in the same manner and form to all intents and purposes and as fully and effectually as if the said Revenues of First Fruits and Tenths were still payable in the same manner and to the same officers as before the passing of this Act; and that from and after the said *One thousand eight hundred and Thirty-* the said Treasurer for the time being of the Governors of the Bounty of Queen Anne shall and may have and exercise the same powers and authorities with regard to the issuing, suing forth and prosecution of such writs, process and proceedings for or relating to the recovery or compelling payment of the said Revenues of First Fruits and Tenths, and all penalties for non-payment thereof, or otherwise relating thereto, as the said Remembrancer of First Fruits and the said Collectors or Receivers of First Fruits and Tenths respectively, whose offices are hereby abolished, had or might have exercised immediately before the passing of this Act.

5.
Duties of abolished Offices to be performed by the Treasurer of Queen Anne's Bounty.

And be it Enacted, That from and after the said *One thousand eight hundred and Thirty-* all returns by the Bishops of the several dioceses of institutions to benefices, and all returns whatsoever heretofore made to, and all notices, process and other proceedings, charges, discharges, bonds, recognizances, estreats, matters and things usually issued, done, had, received, filed, recorded or taken by or under the authority of the said Remembrancer of First Fruits and Tenths, or the said Collectors and Receivers of First Fruits and Tenths, and other officers whose offices are hereby abolished, or any of them, for the recovery or enforcing the payment of the said Revenues of First Fruits and Tenths, or for any other purpose whatsoever, and which shall from henceforth be by law required or needful to be made and delivered, issued, done, had, received, filed, recorded or taken, shall be respectively made and delivered to, and issued, done, had, received, filed, recorded and taken by the Treasurer for the time being of and appointed by the said Governors of the Bounty of Queen Anne, or the Clerks in the office of such Treasurer by and under his direction, according to the course and practice of such office, as fully and effectually to all intents, constructions and purposes as the same might or could have been made and delivered to,or issued, done, had, received, filed, recorded or taken by the said Remembrancer, Collectors and Receivers and other officers whose offices respectively are hereby abolished, or any of them, before the passing of this Act.

6.
Searches to be made, and Copies of Documents to be obtained as heretofore.

And be it Enacted, That from and after the said *One thousand eight hundred and Thirty-* all such searches, copies or extracts as may now be made, taken or obtained by any person or persons whomsoever, in and from the records, books and other documents in or belonging to the said Offices of First Fruits and Tenths respectively, shall or may be made and taken from the same records, books and other documents, and all other similar records, books and other documents for the time being which by virtue of this Act shall be in or belonging to the Office of the Treasurer for the time being of the said Governors of the Bounty of Queen Anne, at such time or times, and in such manner and upon payment of such fees as the said Governors shall under their common seal order and direct; and that all such copies or extracts signed and authenticated by the said Treasurer for the time being, or such other person or persons as shall be appointed by him for that purpose, shall be as available in evidence and as valid and effectual to all intents and purposes, as the same would by law have been, if the same had been signed, authenticated and given before the passing of this Act by the said Remembrancer and other Officers whose offices are hereby abolished, or any of them.

7.
Fees for Searches, &c. to be paid to the Treasurer of Queen Anne's Bounty.

And be it Enacted, That in the meantime and until such order or orders shall be made in that respect, as are hereinafter provided, all fees for such searches and copies or extracts as aforesaid, and all such other fees, perquisites and other payments whatsoever (except salaries) as are now paid to or received by and for the use and benefit of the said Remembrancer and other Officers whose offices are hereby abolished, shall be paid to and received by the said Treasurer for the time being of the Bounty of Queen Anne, and shall be by him from time to time accounted for and paid and disposed of in the same manner and for the same purposes as the said revenues of First Fruits and Tenths hereby made payable to him as aforesaid.

8.
Account of First Fruits and Tenths payable to be sent to Clerks on Institution.

And be it Enacted, That the said Treasurer for the time being of the Bounty of Queen Anne, shall upon or immediately after the receipt of every return of institutions made by the Bishops of the respective dioceses in England or Wales, deliver or transmit by the post or otherwise to every Clerk or other person instituted to any Ecclesiastical Benefice an account or statement in writing of the payments (if any) which are to be made by him for or in respect of the First Fruits and yearly Tenths of such benefice, and of the times and manner of making such payments.

9.
Notice of Arrears to be sent to the Party omitting to pay.

And be it Enacted, That when and as often as it shall appear to the Treasurer for the time being of the Governors of the Bounty of Queen Anne, that any person liable to the payment of First Fruits or Tenths, shall have omitted or neglected to pay the same respectively for *One* calendar Month over or after the due and proper time for such payment, the said Treasurer for the time being shall thereupon give or transmit to each such person by the post or otherwise a notice in writing stating the amount then appearing to be due from such person for or in respect of First Fruits and Tenths respectively; and that such notice shall, from time to time, be repeated as often as the said Treasurer may deem expedient; and that in particular between the *Twenty-ninth* day of *September* and the *Twenty-fifth* day of *December* in every year, such a notice shall be given, sent or transmitted as aforesaid, to every Archbishop, Bishop or other dignitary, rector, vicar or other person from whom any First Fruits or yearly Tenths, or any sum or sums of money in respect thereof may then appear to be due, to the end that the payments of such First Fruits and Tenths may in no case be omitted or neglected through ignorance or inadvertence.

10.
General Meeting of Governors to be held yearly.

And be it Enacted, That between the *First* day of *February* and the *First* day of *July* in every year, on some convenient day and at some convenient place in the City of London or Westminster to be respectively appointed for that purpose by the said Governors of the Bounty of Queen Anne, they the said Governors shall hold an extraordinary general court or meeting for the despatch of the business of the said Governors, and that at least *Fourteen* Days' previous notice of the time and place of such general court or meeting shall be yearly given in the London Gazette.

11.
Account to be annually laid before Her Majesty in

And be it Enacted, That the said Governors of the Bounty of Queen Anne shall in the month of *November* in every year make out in writ-

Council, and both Houses of Parliament.

ing a full and particular account and return of all their receipts and disbursements during the preceding year, and of all sums of money which at the time of making such account or return shall appear to be due or in arrear from any person or persons whomsoever for or in respect of First Fruits or Tenths respectively, and shall present such account or return to Her Majesty in Council; and that the same or copies thereof shall at the commencement of the ensuing Session be laid before both Houses of Parliament.

12.
Governors empowered to make Rules and Orders.

And be it Enacted, That it shall be lawful for the said Governors of the Bounty of Queen Anne, and they are hereby authorized and empowered from time to time as they shall see occasion to make such rules, orders, regulations and arrangements as the said Governors or any *Seven* of them, with such quorum as in the said Letters Patent of Her said Majesty Queen Anne is directed, shall from time to time in their discretion think proper for the better collecting, receiving and enforcing the payment of the said First Fruits and Tenths, and accounting for the same, and for prescribing or regulating the duties of the said Treasurer for the time being with respect to the said First Fruits and Tenths, and his receipt, disposition and accounting for the same, and the number, duties and employment of the Clerks or other persons to be employed therein under the direction of such Treasurer or otherwise, and for the remuneration of the said Treasurer, Clerks and other persons respectively for the duties performed by him and them respectively in the matters aforesaid, either by a fixed salary or salaries, or by the appropriation to him or them respectively for his or their own benefit of all or any of the fees hereinbefore directed to be paid to such Treasurer for the time being, and to give such general or special orders and directions for enforcing and carrying into more complete operation the objects and purposes of this Act as the said Governors shall deem necessary or expedient: Provided always, That such rules, orders, regulations, arrangements and directions be auxiliary to and not inconsistent with the enactments and provisions herein contained.

13.
Conditions annexed to the augmentation of certain Vicarages and other Ecclesiastical Benefices.

And be it Enacted, That from and after the *passing of this Act*, no vicarage, curacy or other ecclesiastical benefice shall be augmented by or out of the funds of the said Governors of the Bounty of Queen Anne, in any case where the rectory appropriate or impropriate of the parish or place in which the church or chapel of such vicarage or curacy shall be situate, or the great or rectorial tithes of such parish or place, or any allotment or allotments of land made or given in lieu of such great or rectorial tithes, shall belong to or be in the holding of any Archbishop, Bishop, Dean, Dean and Chapter, Archdeacon, Prebendary or other Ecclesiastical Corporation, person or persons, or the Master and Fellows of any College, or the Master or Guardans of any Hospital in his or their corporate capacity, unless such vicarage, curacy or other ecclesiastical benefice respectively shall previously have been or shall then and at the same time be augmented by a gift of all or any part of the rectory, rectorial tithes, or allotments in lieu of rectorial tithes, in the parish where the church or chapel of such vicarage or curacy or other ecclesiastical benefice shall be situate, under or by virtue of an Act passed in the first and second years of his late Majesty King WILLIAM the Fourth, intituled, "An Act to extend the provisions of an Act passed in the twenty-ninth year of the reign of his Majesty King CHARLES the Second, intituled, 'An Act for confirming and perpetuating Augmentations made by Ecclesiastical Persons to small Vicarages and Curacies, and for other purposes,'" or under or by virtue of any other Act or Acts in that behalf, or money or other property shall have been previously given, or shall be then and at the same time given to the said Governors for the augmentation of such vicarage, curacy or other ecclesiastical benefice respectively; and that in case of any such previous or contemporaneous augmentation thereof, as hereinbefore is mentioned, any augmentation which shall thereupon or thereafter be made by the Governors of the Bounty of Queen Anne, of any such vicarage, curacy or other ecclesiastical benefice, shall not exceed the amount or value of the previous or contemporaneous augmentation, or gift for the augmentation thereof, so far as the said Governors may be able to ascertain such value, of which they shall be the sole judges.

14.
Preference to be given in cases where the Rectorial Tithes are not impropriate.

And be it Enacted, That from and after the *passing of this Act* the said Governors of the Bounty of Queen Anne, in selecting and determining from time to time what ecclesiastical benefices shall be augmented by them, shall, as far as circumstances will permit, in their judgment and discretion give a preference to cases in which the great or rectorial tithes are not appropriate or impropriate, or otherwise severed or held separately, from the rectories, vicarages, or other benefices respectively proposed to be augmented.

15.
Benefices not to be augmented, unless Incumbent be resident thereon.

And be it Enacted, That from and after the *passing of this Act*, no rectory, vicarage, curacy or other ecclesiastical benefice shall be augmented by or out of the funds of the said Governors of the Bounty of Queen Anne (except to meet and according to the extent of Benefactions made by other persons as aforesaid), unless the Incumbent of such rectory, vicarage, curacy or other benefice respectively shall be actually resident thereon, or shall in person perform the clerical duties thereof.

16.
Brovisions of former Acts relating to First Fruits and Tenths to continue in force, except when altered by this Act.

And be it Enacted, That all the laws, statutes and provisions touching or concerning the said Revenues of First Fruits and Tenths, and the imposing, charging, assessing and levying, and the true answering and payment of the said First Fruits and Tenths, or touching the charge or discharge or alteration of them, or any of them, or any matter or thing relating thereto which were in force immediately before the *passing of this Act*, and which are not hereby or hereinbefore altered or repealed, shall be, remain and continue in their full force and effect, and shall hereafter be observed and put in due execution according to the tenor or purport of the same and every of them in all things excepting such as are in or by this Act altered or repealed.

17.
Compensation to the Remembrancer of First Fruits and Tenths.

AND whereas it is fit and reasonable that a fair and proper price or consideration in money should be paid out of the funds of the said Governors of the Bounty of Queen Anne to Henry Warre, Esquire, the present Remembrancer of First Fruits and Tenths, or other the owner or owners of the freehold and inheritance of such office under the said Letters Patent of King CHARLES the Second, as and for the purchase of or a compensation for the loss of the same by virtue of this Act, and that a fair and proper compensation in money should also be paid out of the funds of the said Governors of the Bounty of Queen Anne to George Arbuthnot, Esquire, the present collector or receiver of First Fruits, and to Thomas Venables, esquire, the present collector or receiver of Tenths, and to Mr. Richard Griffiths, the present senior sworn clerk in the said Office of First Fruits, for the loss which they will respectively sustain by the abolition of their said respective offices by virtue of this Act; BE it therefore Enacted, That the Governors of the Bounty of Queen Anne shall by and out of the Funds of their said Corporation, pay to the said Henry Warre, or other the owner or owners of the said office of Remembrancer of First Fruits and Tenths, and the freehold and inheritance thereof, as and for the purchase of or a compensation for the loss of the same by virtue of this Act, such a sum of money as shall by the Lord High Treasurer, or the Commissioners of Her Majesty's Treasury for the time being, or any *Three* or more of them, by warrant under their hands, be ascertained and declared to be the fair and reasonable value of the said office of Remembrancer of First Fruits and Tenths, and the freehold and inheritance thereof.

18.
Compensation to other Officers.

And be it Enacted, That the said Governors of the Bounty of Queen Anne shall by and out of the funds of their said corporation pay to each respectively of the said George Arbuthnot, Thomas Venables and Richard Griffiths such a sum or sums of money either annually or in gross as shall by the Lord High Treasurer or the Commissioners of Her Majesty's Treasury for the time being, or any *Three* or more of them, by warrant under their hands, be ascertained and declared to be a fair and reasonable compensation for the loss which the said last-mentioned officers respectively will sustain by the abolition of their said respective offices by virtue of this Act.

19.
Claims of Officers may be referred to

And be it Enacted, That for the better enabling the Lord High Treasurer, or the Commissioners of Her Majesty's Treasury for the time being

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being, to form a correct judgment of the value of the said Office of Remembrancer of First Fruits and Tenths, and the fee-simple and inheritance thereof, and the price or consideration which ought to be paid for the same as aforesaid, and of the nature and amount of the compensations which ought to be made and paid to the said George Arbuthnot, Thomas Venables and Richard Griffiths respectively, for the loss of their said respective offices as aforesaid, it shall and may be lawful for the Lord High Treasurer, or the Commissioners of Her Majesty's Treasury for the time being, or any *Three* of them, if he or they shall see fit, from time to time to refer the same to the examination and consideration of the Commissioners appointed or to be appointed under or by virtue of an Act passed in the first year of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act for regulating the Receipt and future Appropriation of Fees and Emoluments receivable by Officers of the Superior Courts of Common Law," and also by virtue of an Act passed in the first and second years of the reign of his said Majesty King WILLIAM the Fourth, intituled, "An Act to explain and amend an Act for regulating the Receipt and future Appropriation of Fees and Emoluments receivable by Officers of the Superior Courts of Common Law;" and such last-mentioned Commissioners in all cases so referred to them are hereby authorized and required to inquire and certify in the manner directed by the said last-mentioned Acts the gross and net annual value of the lawful fees and other emoluments of every such officer or person whose claim to purchase-money or compensation under this Act shall be referred to them as aforesaid, so that the account of such fees and other emoluments be taken in respect of or for *Ten* Years (or such other time as the case may require) next preceding the *First* day of *January One thousand eight hundred and Thirty* , instead of next preceding the Twenty-fourth day of May One thousand eight hundred and Thirty

the Common Law Courts Commissioners to determine amount of Compensation.

20.
Officers claiming Compensation to be subject to the same Rules as Persons claiming Compensation under above-mentioned Acts.

And be it Enacted, That the said Henry Warre, George Arbuthnot, Thomas Venables and Richard Griffiths, whose offices are hereby respectively abolished as aforesaid, shall, for the purpose of such inquiry and certificate with respect to the fees and emoluments of their said respective offices as aforesaid, be subject and liable to all such enactments, rules, penalties, matters and things as or to which the persons claiming compensation under or by virtue of the said two last-mentioned Acts are thereby made subject to or liable.

21.
Title to be shown to the Office of Remembrancer.

And be it Enacted, That the said Henry Warre, or other the person or persons claiming to be the owner or owners of or entitled to the said office of Remembrancer of First Fruits and Tenths, shall, within *One* calendar Month next after the *passing of this Act*, at his or their own expense, prepare and deliver to the said Governors of the Bounty of Queen Anne, or to their Treasurer for the time being at the office of the said Governors, an abstract of the title to the said office of Remembrancer and the fee and inheritance thereof under the said Letters Patent of King Charles the Second, and shall deduce and evidence a good title to the same to the reasonable satisfaction of the counsel of the said Governors; and that on the said next (such good and marketable title being deduced and evidenced as aforesaid) the said Governors, or their Treasurer for the time being, shall pay to the said Henry Warre, or other the owner or owners of the said Office of Remembrancer of First Fruits and Tenths, and the fee-simple and inheritance thereof, the sum of money which shall in manner aforesaid have been ascertained and declared to be the fair and reasonable price or value of the same, and that the receipt of the person or persons to whom the same money shall be paid shall be a good and sufficient discharge to the said Governors.

22.
In case of not making out a good Title, Purchase-Money to be paid into Court of Exchequer.

Provided always, and be it Enacted, That in case a good title to the said office of Remembrancer of First Fruits and Tenths, and the fee-simple and inheritance thereof, shall not be deduced and evidenced to the reasonable satisfaction of the Counsel of the Governors of the Bounty of Queen Anne, on or before the said next, then and in that case it shall and may be lawful for the said Governors, and they are hereby required with all convenient speed to pay the sum of money which shall have been in manner aforesaid ascertained and declared to be the reasonable price and value of the said office of Remembrancer into the Bank of England, in the name and with the privity of the Accountant-General of the Court of Exchequer, to be placed to his account there, ex-parte the said Governors of the Bounty of Queen Anne, pursuant to the method prescribed by an Act made in the first year of the reign of his Majesty King George the Fourth, intituled, "An Act for the better securing the Monies and Effects paid into the Court of Exchequer at Westminster, on Account of the Suitors of the said Court, and for other Purposes," and the general orders of the said Court, and without fee or reward, to the intent that such money shall be applied under the direction and with the approbation of the said Court, to be signified by an order made upon a petition to be preferred in a summary way by the said Henry Warre, or other the person or persons, body or bodies who would have been entitled to the fees, emoluments and profits of the said office of Remembrancer of First Fruits and Tenths, in case the same had not been abolished in or towards the discharge of any debt or debts, or such other incumbrances or part thereof as the said Court shall authorize to be paid, affecting the same office, or any part or parts, share or shares, estate or estates, interest or interests thereof or therein, or charge or charges thereon, or affecting any other hereditaments standing settled therewith to the same or the like uses, trusts, intents or purposes; or where such money shall not be so applied, then the same shall be laid out and invested under the like direction and approbation of the said Court in the purchase of messuages, lands, tenements or hereditaments which shall be conveyed and settled to, for and upon such and the like uses, trusts, intents and purposes, and in the same manner as the said office of Remembrancer of First Fruits and Tenths, so hereby abolished as aforesaid, stood settled or limited immediately before the *passing of this Act*, or such of them as at the time of making such conveyance or settlement shall be existing undetermined and capable of taking effect; and that in the meantime and until such purchase shall be made, the said money shall by order of the said Court, upon application thereto, be invested by the said Accountant-General in his name, in the purchase of Three Pounds per Centum Consolidated, or Three Pounds per Centum Reduced Bank Annuities; and that in the meantime and until such Bank Annuities shall be ordered by the said Court to be sold for the purposes aforesaid, the dividends and annual produce of the said Consolidated or Reduced Bank Annuities shall from time to time be paid by order of the said Court to the said Henry Warre, or other the person or persons, body or bodies who would for the time being have been entitled to the rents and profits of the lands, tenements and hereditaments so hereby directed to be purchased, in case such purchase and settlement were actually made.

23. Persons in possession of office of Remembrancer, to be deemed rightfully entitled thereto, until contrary is proved.

Provided always, and be it Enacted, That if any question shall arise touching the title of the said Henry Warre, or of any other person or persons, body or bodies, to the monies to be paid into the Bank of England in the name and with the privity of the Accountant-General of the Court of Exchequer in pursuance of this Act, for the purchase of or as a compensation for the said Office of Remembrancer of First Fruits and Tenths, or to any Bank Annuities to be purchased with any such money, or to the dividends or interest of any such Bank Annuities, the said Henry Warre, the present possessor of the said Office of Remembrancer, and all and every person or persons claiming under him, shall be deemed and taken to have been lawfully entitled to the said office, until the contrary shall be shown to the satisfaction of the said Court of Exchequer; and the dividends or interest of the Bank Annuities to be purchased with such money, and also the capital of the said Bank Annuities, shall be paid, applied and disposed of accordingly, unless it shall be made appear to the said court that such possession was a wrongful possession, and that some other person or persons was or were lawfully entitled to such Office of Remembrancer, or to some part or share thereof, or to some estate or interest therein or charge thereon.

24. Act may be altered.

And be it Enacted, That this Act, or any part thereof, may be altered, varied or repealed by any Act or Acts to be passed in this present Session of Parliament.

The SCHEDULE

REFERRED TO BY THIS ACT.

FIRST FRUITS OFFICE.

		£.	s.	d.	£.	s.	d.
Henry Warre, Esquire, Remembrancer.	Annual average amount of Fees - - -	560	–	–			
	Payment from the Court of Exchequer, in lieu of certain abolished Fees	63	–	–			
					623	–	–
George Arbuthnot, Esquire, Receiver - - -	- - - - -	-	-	-	250	–	–
Mr. George Gunthorpe, Senior Sworn Clerk.	Annual average amount of Fees - - -	262	14	2			
	Under Receiver's Patent	20	–	–			
					282	14	2
Mr. John Geesin, Junior Sworn Clerk.	Annual average amount of Fees - - -	-	-	-	118	4	9
				£.	1,273	18	11

TENTHS OFFICE.

		£.	s.	d.	£.	s.	d.
Thomas Venables, Esq. Receiver - - -	Salary - - -	300	–	–			
	Fees - - -	125	–	–			
					425	–	–
Richard Griffiths, Senior Clerk.	Salary - - -	-	-	-	100	–	–
William Bridges, Junior Clerk.	Salary - - -	-	-	-	100	–	–
Besides the Fees on Notices, the amount of which is not stated.							
Office Keeper - - -	- - - - -	-	-	-	25	–	–
Rent of Office, Stationery, Coals and Sundries -	- - - - -	-	-	-	99	–	–
				£.	749	–	–

First Fruits and Tenths, &c.

A

BILL

For the Consolidation of the Boards of First Fruits, Tenths, and Queen Anne's Bounty.

(Prepared and brought in by
Mr. Gally Knight and Lord Viscount Sandon.)

Ordered, by The House of Commons, *to be Printed,*
27 *June* 1837.

434.

6 *March* 1837.—7 WILL. IV.

A

BILL

For the better Protection and Security of the Persons and Property of His Majesty's Subjects residing in the Neighbourhood of Railroads, Canals, and other Public Works sanctioned by Parliament, during the time of Construction.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble.

WHEREAS by an Act of the first and second year of the reign of His present Majesty, intituled, "An Act for amending the Laws relative to the Appointment of Special Constables, and for the better Preservation of the Peace," it is enacted, that in all cases where it shall be made to appear to any Two or more Justices of the Peace of any county, riding or division having a separate Commission of the Peace, or to any Two or more Justices of the Peace of any liberty, franchise, city or town in England or Wales, upon the oath of any credible witness, that any tumult, riot, or felony has taken place, or may reasonably be apprehended in any parish, township or place situate within the division or limits for which the said respective Justices usually act, and such Justices shall be of opinion that the ordinary officers appointed for preserving the peace are not sufficient for the preservation of the peace, and for the protection of the Inhabitants and the security of the property in any such parish, township or place as aforesaid, then and in every such case such Justices, or any Two or more Justices acting for the same division or limits, are hereby authorized to nominate and appoint, by precept in writing under their hands, so many as they shall think fit of the Householders or other persons (not legally exempt from serving the office of Constable) residing in such parish, township or place as aforesaid, or in the neighbourhood thereof, to act as Special Constables for such time and in such manner as to the said Justices respectively shall seem fit and necessary for the preservation of the public peace, and for the protection of the Inhabitants and the security of the property in such parish, township or place: And whereas it is further enacted, that the Justices of the Peace acting for the division or limits within which any such Special Constables shall have been called out to serve at a Special Session to be held for that purpose, or the major part of the Justices at such Special Session, are hereby empowered to order from time to time such reasonable allowances for their trouble, loss of time and expenses, to be paid to such Special Constables who shall have so served and be then serving, as to the said Justices or such major part of them shall seem proper; and the said Justices or such major part of them may also order the payment of such expenses as may have been incurred in providing staves or other necessary articles for such Special Constables; and the said Justices so ordering, if Justices for any county, riding or division having a separate Commission of the Peace, or if Justices for any liberty, franchise, city or town which shall be contributory to the Public Rate for any county, riding or division, shall make every order for the payment of such allowances and expenses upon the Treasurer of such county, riding or division, who is hereby required to pay the same out of any public money which shall then be in his hands, and the said Treasurer shall be allowed all such payments in his accounts; and where the Justices of the Peace assembled at such Special Sessions are Justices for any liberty, franchise, city or town which is not contributory to the Public Rate for any county, riding or division, but which raises a Rate, or other similar fund in the nature of a County Rate, in every such case the said last-mentioned Justices shall make every order for the payment of such allowances and expeness as aforesaid upon the Treasurer or other officer having the collection or disbursement of such last-mentioned Rate or Fund, who shall forthwith pay every such order out of such Rate or Fund, and shall be allowed all such payments in his accounts:

And whereas great Expenses have been cast upon the Public Rates of counties, ridings and divisions, and great inconveniences have arisen by the illegal and outrageous conduct of individuals employed in the construction of Railroads, Canals and other Public Works;

1.
Power given to Justices to appoint Special Constables.

BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the

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the *passing of this Act* it shall and may be lawful for any *Two* or more Justices of the Peace of any county, riding or division having a separate Commission of the Peace, or for any *Two* or more Justices of the Peace of any liberty, franchise, city or town in England or Wales, on the oath of *Three* or more credible Witnesses residing in any parish in which such Railroad, Canal or other Public Work is being formed or constructed, or in any parish within the distance of *One* Mile from the spot or place where such formation or construction is carrying on, that any tumult, riot, depredation, outrage or felony has been committed, or may reasonably be apprehended to be committed, by any persons employed in the construction of such Railroad, Canal or other Public Work situate in any parish within the limits or division for which such Justices usually act, then, and in every such case it shall and may be lawful for such Justices or any *Two* or more Justices acting for the same division or limits, to nominate and appoint, by precept in writing under their hands, so many as they shall think fit of the Householders or other persons (not legally exempt from serving the office of Constable) residing in such parish as aforesaid, or in the neighbourhood thereof, to act as Special Constables for such time and in such manner as to the said Justices respectively shall seem fit or necessary for the preservation of the public peace, for the protection of the inhabitants, and for the security of their property: Provided always, That the appointment of such Special Constables shall be subject to the approbation of His Majesty's Secretary of State for the Home Department: Provided also, That should it appear to His Majesty's Secretary of State for the Home Department that the number of Special Constables was too large, or not sufficient for the exigency of the case, then it shall and may be lawful for him to order that such number should be increased or diminished according to his discretion.

To be approved by the Secretary of State for the Home Department, who may increase or diminish their Number.

2\.

Allowance to Special Constables for loss of time, &c.

And be it further Enacted, That it shall and may be lawful for such Justices as aforesaid, in Petty Sessions assembled, at any time not exceeding *One* Month after such appointment, to order from time to time such reasonable allowances for their trouble, loss of time and expenses, to be paid to such Special Constables who shall have so served or be then serving, as to the said Justices or such major part of them shall seem proper; and the said Justices shall make every such order for the payment of such allowances and expenses upon the Treasurer or other officer who shall have the collection or disbursement of the funds of the Company or Companies executing such Railroad, Canal, or other Public Work or Works: Provided always, That nothing herein contained shall authorize or empower any such Justices to order any allowance for any such Special Constables at the rate of more than *Five* Shillings per diem to be paid to each Special Constable.

Rate of Allowance.

And

3. Payment ordered by Justices to be recovered by Distress.

And be it further Enacted, That in all cases where such Treasurer or other officer as aforesaid shall refuse to pay such reasonable sum of money as shall have been ordered by such Justices as aforesaid, it shall and may be lawful for such Justices to cause the same to be levied by distress upon the goods and chattels belonging to such Railroad, Canal or other public Company.

4. Powers of the Act to cease on the completion of Railroads, &c. Not to extend to Works not sanctioned by Parliament.

Provided always, and be it further Enacted, That the powers of this Act shall cease and determine in each case so soon as any such Railroad, Canal or other Public Work shall be completed: Provided also, that nothing in this Act shall be construed to extend to any Public Work which has not been sanctioned by Parliament.

Railroads and Public Works.

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B I L L

For the better Protection and Security of the Persons and Property of His Majesty's Subjects residing in the Neighbourhood of Railroads, Canals, and other Public Works sanctioned by Parliament, during the time of Construction.

(Prepared and brought in by
Mr. Dugdale and Lord Granville Somerset.)

Ordered, by The House of Commons, *to be Printed*,
6 *March* 1837.

92.

A

BILL

To amend so much of an Act passed in the Fifty-ninth Year of the Reign of King George the Third, intituled, "An Act to amend the Laws for the Relief of the Poor, as relates to the Rating of small Tenements."

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble:

WHEREAS the collection of the Rates for the relief of the Poor assessed on the Occupiers of small Tenements and of Houses let for short terms is difficult, and the payment by such occupiers of their Poor Rates greatly evaded:

59 G. 3 c. 12. s. 19. &c.

And whereas by an Act passed in the fifty-ninth year of the reign of King George the Third, intituled, "An Act to amend the Laws for the Relief of the Poor," provision was made for rating to the relief of the Poor, the Owners of Houses, Apartments or Dwellings, which should be let to the Occupiers thereof at any rent or rate not exceeding Twenty Pounds, nor less than Six Pounds, by the year for any less term than one year, is, on any agreement by which the rent should be received or made payable at any shorter period than Three Months, instead of the actual occupiers thereof:

And whereas the operation of such provision hath not been found to be co-extensive with the mischief which it was intended to remedy; and it is expedient to amend and extend the same;

Be it therefore Enacted, by The KING's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal,

1. Repeal of so much of 59 Geo. 3. as is inconsistent with this Act.

Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT so much of the said Act of the fifty-ninth year of the reign of King GEORGE the Third, as is contrary to or inconsistent with the provisions of this Act, shall be and the same is hereby repealed.

2. After a day to be fixed by the Poor Law Commissioners, the Rates on Tenements let at Rents not exceeding 6*l.* yearly, to be paid by the Owner.

And be it Enacted, That from and after such date or time as the Poor Law Commissioners for England and Wales shall, by any order under their seal of office, direct the sums which shall be assessed in all Rates for the Relief of the Poor of any parish in England and Wales for or in respect of the Tenements which shall be let to the Occupiers thereof, at any rent or rate not exceeding *Six* Pounds from year to year, or any less term, or on any agreement by which the rent(not exceeding the amount aforesaid, shall be reserved or made payable at any shorter period than *Three* Months, shall be borne and paid by the Owners of such Tenements, instead of the actual Occupiers thereof.

3. Overseers to demand Rates of small Tenements of the Owner.

Recovery of the Rates of small Tenements:

1. From the Owner.

2. From the Occupier for the time of the occupancy, and to the extent of the Rent due.

Justices to determine questions as to amount of Rent due.

Occupier paying such Rates to be allowed the amount in the Rents.

And be it Enacted, That the Churchwardens and Overseers of the Poor of every such parish, and all other Officers whose duty it may be to make and levy the Poor-rate therein, shall, and they are hereby empowered and required, to demand of and collect from such owners the sums which shall be assessed in the Rates for the Relief of the Poor for or in respect of such tenements; and that upon non-payment thereof by such Owners, the same sums shall and may be enforced against them and levied on their goods and chattels, in like manner as the same might have been enforced if such Owners had been the actual Occupiers of such Tenement; and also that the payment of the whole amount of the sums so assessed on such Tenement shall and may be demanded of the actual Occupiers, and so much thereof as shall have been due during their occupancy, and as shall not exceed in amount the sums then actually due from such Occupiers to such Owners for the rent of such Tenements respectively (but no further or greater sum) shall and may be enforced against such Occupiers, and levied on their goods and chattels found in and about the same Tenement; and that in case of any doubt or question being entertained or raised as to the commencement or duration of any such occupancy, the amount of rent actually due from any such Occupier to any such Owners, it shall be lawful for any *Two* Justices of the Peace having jurisdiction to grant a warrant of distress for levying the Rate so assessed, to ascertain and determine the facts relating to such occupancy or rent, and the determination of such Justices shall be final: Provided always, That every Occupier who shall pay any such rate, or upon whose goods and chattels the same or any part thereof shall be levied, shall and may deduct the amount of the sum which shall be so paid or levied, and the costs of levying the same, out of the rent which is or shall become payable by him to the Owner in respect of such Tenements, and shall be and is hereby acquitted and discharged of and from an equivalent portion of such rent as fully and effectually as if the same amount had been actually paid to such owner on or towards the rent of such Occupiers.

4.
Owners paying Rates to have all the remedies and privileges of appealing, voting, &c. instead of Occupiers.

And be it Enacted, That the Owners of such Tenements who shall pay the sums assessed on the Rates for the relief of the Poor in respect thereof as aforesaid, shall be entitled to have and enjoy, instead of the actual Occupier thereof, such right to take copies of or extracts from such Rates, and such remedy by objecting to or appealing against such Rates, and such privileges of being present at any Vestry or Parochial Meetings of the Parishes in which such Tenements are situate, as such Occupiers would have had and enjoyed if they had paid such Rates on their own account; and that on all questions relating to the execution of the laws for the relief of the Poor, such Owners shall be entitled to have in respect of the aggregate amount of the rateable value of such Tenements belonging to them respectively, the number or proportion of Votes which is in and by the said "Act for the Amendment and better Administration of the Laws for the Relief of the Poor," given to Rate-payers in respect of their occupation on the election of Guardians as therein mentioned.

4 & 5 W. 4. c. 76. s. 40.

5.
Power for the Guardians of Unions, &c. to direct that the Owners of Tenements let from 6*l.* to 20*l.* shall pay the Rates;

And be it Enacted, That from and after such date or time, and subject to such rules, orders and regulations as the said Poor Law Commissioners shall fix and make in this behalf, it shall be lawful for the Guardians of the Poor of every Union of Parishes which is or shall be declared, and of every single Parish, for which a Board of Guardians is or shall be established under the powers of an Act passed in the fourth and fifth years of the reign of His present Majesty, intituled, "An Act for the Amendment and better Administration of the Laws relating to the Poor in England and Wales," to resolve and direct that the sums which shall be assessed in all Rates for the relief of the Poor in any parish comprised in such union, or in such single parish for or in respect of all Tenements which shall be let to the Occupiers thereof, at any rent or rate exceeding *Six* Pounds, but not exceeding *Twenty* Pounds by the year, either from year to year or any less term, or on any agreement by which the rent, not exceeding the amount aforesaid, shall be reserved or made payable at any shorter period than *Three* Months, shall be borne and paid by the Owners of such last-mentioned Tenements, instead of the actual Occupiers thereof; and that (subject to such rules, orders and regulations aforesaid) it shall be lawful for the said Guardians of the Poor from time to time to rescind, renew, vary and amend every such resolution or direction; and that the Churchwardens and Overseers of the Poor of every such

Power to vary Resolutions;

Churchwardens and Overseers to

carry into effect such Resolutions.

parish and all other officers whose duty it may be to make and levy the Poor-rate therein, shall and they are hereby empowered and required to carry into effect all such resolutions and directions of the said Guardians of the Poor, and, in pursuance and execution thereof, to collect and levy the sums which shall be assessed in such Rates for or in respect of such last-mentioned Tenements, in such and the like manner, and as fully to all intents and purposes, as is herein provided with respect to Tenements let at rent not exceeding *Six* Pounds by the year.

6.
Power for Poor Law Commissioners to alter the form of the Rate-book, to adapt it to the provisions of the Act.

And be it Enacted, That such addition to or alterations in the form of the Rate-book prescribed by the said Act, passed in the last Session of Parliament, to regulate Parochial Assessment, shall be made for the purpose of adapting the same to the provisions of the Act as the Poor Law Commissioners shall by any general rule direct.

7.
Act not to affect right of Occupier to be rated under the Parliamentary Reform and Municipal Corporation Acts.

2 W. 4. c. 43.

5 & 6 W. 4. c. 76.

And be it Enacted, That nothing in this Act contained shall prevent the Occupier of any Tenement, who, in right of his occupation, or of paying to the Poor Rate, would be entitled to the elective franchise for Members of Parliament, or for the purposes of any Municipal Corporation, from claiming to be subjected to the payment of the Poor Rate in manner provided by an Act passed in the second year of the reign of His present Majesty, intituled, " An Act to amend the Representation of the People of England and Wales," or of any Act passed in the fifth and sixth years of the same reign, intituled, " An Act to provide for the Regulation of the Municipal Corporations in England and Wales," or any Act to amend or extend the said last-mentioned Acts, or either of them: Provided always, That in case any such Occupier claiming as aforesaid, shall make default in the payment of such Poor Rate, such Owner shall become and remain liable for the payment thereof.

8.
Interpretation of words.

And be it Enacted, That in the construction of this Act, unless there be something in the subject or context repugnant to such construction, the word " Tenement" shall be construed to include any land, house, dwelling, apartment or other hereditament rateable to the Poor, together, with the garden, yard, curtilages and other appurtenance or easement held and let therewith; the word " Owner" shall mean and include any person being the immediate lessor of the actual Occupier, and claiming or receiving the rents of such Tenement, either for his own use or as mortgagee or other incumbrances in possession, and any person receiving such rent for the use of any corporation aggregate, or of any landlord, a lessor, who shall not be usually resident within *Twenty* Miles of the parish in which such Tenement shall be situate; the word

"Occupier" shall mean any Tenant at Rack-rent, and any person beneficially occupying any Tenement, not being a lodger or undertenant of a Tenant at Rack-rent; and the words "Rack-rent," "Person," "Rules, Orders and Regulations," "Vestry," "Poor-rate" and "Parish," and all words importing the singular number or masculine gender only, shall be construed to have the same signification as the same words are declared to have in the said Act of the fourth and fifth years of the reign of His present Majesty for the "Amendment and better Administration of the Laws relating to the Poor in England and Wales."

9. Act only to extend to England and Wales.

And be it Enacted, That this Act shall extend only to England and Wales.

10. Act may be altered.

And be it Enacted, That this Act may be altered or repealed by any Act to be passed in the present Session of Parliament.

ANALYSIS of the proposed BILL.

Sec.		Page
	PREAMBLE recites, that the collection of the rates of small tenements from the occupiers is difficult, and the payment of them evaded	1
	That by the Act 59 Geo. 3. c. 12. s. 19. provision was made for the rating of the owners of small tenements	1
	That the operation of that Act is not co-extensive with the mischief, and that it is expedient to amend and extend it	1
	ENACTMENT:	
1.	So much of 59 G. 3. c. 12. as is inconsistent with this Act repealed	1
2.	Requires, that from a date to be fixed by the Poor Law Commissioners the rates on tenements let under 6*l.* yearly shall be borne and paid by the owners	2
3.	Power from the overseers to collect the rates from the owners	2
	Recovery—1. From the owner	2
	2. From the occupier, to the extent of the rent due	2
	Justices to determine questions of amount of rent due, &c.	2
	Occupiers paying rates to be allowed the amount in their rents, and payment of rates to operate as a discharge pro tanto from rent	2
4.	Owners paying rates to have all remedies and privileges as to appeal and objection to rates, attendance at vestries, instead of occupiers	3
	Scale of voting	3
5.	Subject to the rules of, &c., and from a date to be fixed by the Poor Law Commissioners, the guardians of the poor of every union or parish under the Poor Law Amendment Act to resolve and direct that the rates on tenements let to the occupiers at any rent or rate exceeding 6*l.*, but not exceeding 20*l.* yearly, either from year to year or any less term, or on any agreement by which the rent is payable oftener than quarterly, shall be borne and paid by the owners, instead of the occupiers	3
	Power to vary and rescind such resolutions	3
6.	Such alteration to be made in the form of rate-book prescribed by 6 & 7 W. 4. c. 96. as the Poor Law Commissioners shall by any general rule direct	4
7.	Act not to affect right of occupier to be rated under Municipal Corporation and Parliamentary Reform Act	4
8.	Interpretation of the words "tenement," "owner," "occupier;" and the words "rack-rent," "rules, orders and regulations," "vestry," "poor-rate" and "parish," to have same signification as those words in 4 & 5 W. 4. c. 76	4–5
9.	Act only to extend to England and Wales	5
10.	Act may be altered this Session	5

Rating of Tenements.

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BILL

To amend so much of an Act passed in the Fifty-ninth Year of the Reign of King George the Third, intituled, "An Act to amend the Laws for the Relief of the Poor, as relates to the Rating of small Tenements."

(Prepared and brought in by
Sir Harry Verney and Sir Charles Lemon.)

Ordered, by The House of Commons, *to be Printed,*
15 June 1837.

403.

24 *February* 1837.—7 Will. IV.

A

BILL

To provide for the safe Custody, better Preservation, and more convenient Use of the Public Records.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble.

WHEREAS many of the Public Records are lodged in various unsafe and unsuitable buildings, situated at inconvenient distances from each other in London and Westminster, and in various custodies; and whereas the free use of them is impeded by their being insufficiently arranged, described and ascertained, and by various inconvenient regulations, and especially by the taking of oppressive Fees: And whereas it is expedient to amend these evils, and to establish one suitable Repository and a better custody, and to abolish all Fees, and render the said Records as fully as may be accessible to the Public; Be it therefore Enacted, by The KING's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the Lord High Treasurer or the Lords Commissioners of His Majesty's Treasury for the time being, or any *Three* or more of them, shall and may provide, in some convenient place in London or Westminster, a suitable and commodious building for the reception of the Public Records hereinafter mentioned, to be called the "General Record Office;" and such General Record Office shall, for all purposes, be the legal Repository of all Records, Rolls, Books, Papers and Documents at any time therein deposited.

1.
A general Repository to be provided in London or Westminster.

2.
Keeper General appointed, and removable.

And be it further Enacted, That it shall be lawful for His Majesty, His heirs and successors, by warrant under the Sign Manual, to appoint a fit and proper person, who shall be and shall be called the "Keeper

General of the Public Records of England and Wales," and also from time to time, at pleasure, to remove the said Keeper General, and upon any vacancy, either by removal or by death or otherwise, to appoint in like manner some other fit and proper person to the said office.

3. Keeper General, with consent of the Lord Treasurer or Lord's of the Treasury, to appoint Officers.

Treasury to fix Salaries.

Such Salaries and Allowances and other expenses to be paid out of the Consolidated Fund.

And be it further Enacted, That the said Keeper General shall and he is hereby empowered from time to time to appoint, in writing under his hand, with the consent of the Lord High Treasurer, or the Lords Commissioners of His Majesty's Treasury for the time being, or any *Three* or more of them, a sufficient number of Assistant Record Keepers, and also such Clerks, Workmen, Messengers and Officers as he shall deem necessary for carrying this Act into execution; and the persons so appointed shall assist in carrying this Act into execution in such manner as the said Keeper General may direct, and shall be removable by the said Keeper General, with the consent and approbation of the Lord High Treasurer, or the Lords Commissioners of His Majesty's Treasury for the time being, or any *Three* or more of them; *and the said Lord High Treasurer, or the Lords Commissioners of His Majesty's Treasury for the time being, or any Three or more of them, shall fix the Salary of the said Keeper General, so that the same shall not at any time exceed the sum of*

yearly; and shall also fix the Salaries of the Assistant Record Keepers, Clerks and Officers, in fit proportion, according to the duties they may have to perform; and the Salaries of the said Keeper General, the Assistant Record Keepers, Clerks and Officers, and all necessary expenses for carrying on the business of the said General Record Office, and of the custody, management and removal of all the Records in and to the custody of the said Keeper General, shall be paid by the said Lord High Treasurer, or Lords Commissioners of His Majesty's Treasury for the time being, or any Three or more of them, out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland.

4. Keeper General and Assistant Keepers to take Oath.

And be it further Enacted, That every General Keeper and Assistant Keeper to be appointed from time to time as aforesaid, shall, before he shall enter upon the execution of his office, take the following oath before the Master of the Rolls, or one of the Judges of His Majesty's Courts of King's Bench or Common Pleas, or one of the Barons of the Court of Exchequer; (that is to say)

> " I, A. B., do swear, That I will faithfully, and impartially and honestly, according to the best of my skill and judgment, execute and fulfil all the powers and duties of a General Record Keeper [or, Assistant Record Keeper, as the case

may be], under an Act passed in the year of the reign of King William the Fourth, intituled [here set forth the title of the Act]."

5. Public Records of the age of *Twenty* Years to be placed under the custody of the Keeper General.

And be it further Enacted, That the said Keeper General, from and after the *passing of this Act*, shall have the custody of all Records, Rolls, Books, Papers and Documents whatsoever, deposited in and belonging to the Record Offices in the Tower of London, Chapter House of Westminster, Rolls Chapel, Petty Bag Office, Offices in the custody of the King's Remembrancer of the Exchequer, or of any other officer of the Exchequer, Augmentation Office, First Fruits' and Tenths' Office and Office of the Auditor of the Land Revenues of England and Wales, and of all Records, Rolls, Books, Papers and Documents lately deposited in the office of the Pells of the Exchequer and now in the custody of His Majesty's Comptroller General of the Exchequer, and of all Records, Rolls, Books, Papers and Documents belonging to the Courts of Chancery and Exchequer, King's Bench and Common Pleas, and the lately abolished courts of the Principality of Wales and the Palatinate of Chester, in whatsoever office or place they may be at present or hereafter shall be deposited; provided that such Records Rolls, Books, Papers and Documents (except the Records of the lately abolished courts of the Principality of Wales and the Palatinate of Chester), shall have attained the period of *Twenty* Years from the time of their formation, or as soon as they shall at any time hereafter have attained such period of *Twenty* Years from the time of their formation; and the persons being Keepers or otherwise having any custody of or control over such Records, Rolls, Books, Papers and Documents above mentioned, in whatsoever office or place they may be deposited, shall upon the *passing of this Act* deliver into the custody of the said Keeper General, all such Records, Rolls, Books, Papers and Documents whatsoever, and shall when required certify the delivery of the same upon oath to be taken before one of the Judges of His Majesty's Court of King's Bench or Common Pleas, or one of the Barons of the Exchequer; and the said Keeper General shall have and exercise the same powers over all the said Records, Rolls, Books, Papers and Documents before mentioned as are held and exercised by the Judges of the Courts and present Keepers; and so long as the said Records, Rolls, Books, Papers and Documents shall continue in their present repositories, the said Keeper General shall to all intents and purposes be Keeper of the same, and shall have the same powers as the present Keepers, and shall have full powers to delegate the custody of Records, wheresoever deposited, to his Assistant Keepers or any of them, until such time as the said Records, Rolls, Books, Papers and Documents are placed

Such Records to be delivered up to the custody of the Keeper General.

in the General Record Office, and to make such rules, regulations and orders as he may deem necessary for the preservation, arrangement, repair and binding of all Records, Rolls, Books, Papers and Documents, and for the compilation of Calendars, Catalogues and Indexes: Provided always, That the Lord Chancellor and Master of the Rolls, and all or any of the Judges of His Majesty's Courts of King's Bench and Common Pleas, and all or any of the Barons of the Exchequer, shall retain all their ancient authority and power of superintending the state of the preservation and mode of keeping all the Records, Rolls, Books, Papers and Documents within the custody of the said Keeper General, and of reporting to the Lord High Treasurer or Lords Commissioners of His Majesty's Treasury, or any *Three* or more of them for the time being, any alterations or improvements which he or they may deem requisite.

Judges to retain their powers of Superintendence.

6.
Power to remove Records.

And be it further Enacted, That it shall be lawful for the said Keeper General to cause to be removed the Records, Rolls, Books, Papers and Documents before mentioned from such offices and repositories into such General Record Office whensoever he may think fit, and to cause to be removed at any future time into such General Record Office all Records, Rolls, Books, Papers and Documents of the Courts of Chancery and Exchequer, King's Bench and Common Pleas, which shall have attained the period of *Twenty* Years from the time of their formation, after *Three* Months' notice given under his hand to the Chief Judge of the Court to which the Records proposed to be so removed shall belong; and that all Keepers of such Records shall deliver up the same to the custody of the said Keeper General upon receiving any order from time to time to that effect, unless such said Chief Judge shall signify to such Keeper General any order to the contrary effect: Provided always, That in any case in which such Chief Judge shall signify any such order as aforesaid to the effect that such Records are not to be so removed, such notice and order shall be referred to the Lord High Treasurer or Lords Commissioners of His Majesty's Treasury for the time being, or any *Three* or more of them, who shall determine whether such proposed removal shall then take place.

Modern Records to be removed with consent of Judges.

7.
No removal to affect the value of Records as evidence.

And be it further Enacted, That no such removal of any Records, Rolls, Books, Papers and Documents from any repository, at any time, to the General Record Office, or from the custody of any authorized Keeper to the custody of the Keeper General, shall affect or invalidate such Records, Rolls, Books, Papers and Documents as evidence in any Court of Justice, or before any tribunal whatsoever; but that all such Records, Rolls, Books, Papers and Documents shall be of equal force and value as they were before such removal.

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8. Judges and Keeper General to regulate the mode of using the Records.

And be it further Enacted, That the said Keeper General, with the consent of the Lord High Chancellor, Master of the Rolls, the Lord Chief Justices or Judges of the Courts of King's Bench and Common Pleas, and the Chief Baron of the Exchequer, or any *Three* or more of them, shall have power to make regulations, rules and orders for the admission of the Public to the use of all Records, Rolls, Books, Papers and Documents, Calendars, Catalogues and Indexes in the custody of the said Keeper General, and to suspend, alter or rescind such regulations, rules, and orders, or any of them.

9. All Records in the custody of the Keeper General to be stamped.

And be it further Enacted, That the said Keeper General shall provide two stamps, on one of which shall be engraved the words, "General Record Office," and on the other the name of the Court or Repository from which any Record, Roll, Book, Paper and Document shall be removed, and that all Records, Rolls, Books, Papers and Documents deposited in the said General Record Office shall be stamped with both such stamps.

10. Annual Report to be made to Parliament by Keeper General.

And be it further Enacted, That the said Keeper General shall *once* in every year prepare and lay before the Secretary of State for the Home Department, a General Report of all his proceedings, and every such General Report shall be laid before both Houses of Parliament, within *Six* Weeks of the receipt of the same by such Secretary of State, if Parliament be then sitting, or if Parliament be not sitting, then within *Six* Weeks after the next meeting thereof.

11. Public to be admitted to inspect and copy Records without payment of fees.

And be it further Enacted, That from and after the *passing of this Act* all persons shall have power to inspect and examine all Records, Rolls, Books, Papers and Documents, and all Calendars, Catalogues and Indexes in the custody of the said Keeper General, and shall be permitted to copy and make extracts from the same without payment of any fees or gratuities whatsoever: Provided always, That such access and copies are subject to the regulations, rules and orders made by the Judges and Keeper General, as above mentioned.

12. Fees abolished, except on Office Copies.

And be it further Enacted, That all Fees whatsoever which shall be paid to or received by the said Keeper General, or any other Officer under him, for any Copy made by the said Keeper General at his discretion, or by any Officer under him, shall be paid into the hands of the Lord High Treasurer, or Lords Commissioners of His Majesty's Treasury for the time being, or any *Three* or more of them, and shall be carried to the account of the Consolidated Fund.

13.
Judges to have power to destroy worthless records.

And be it further Enacted, That the Lord High Chancellor and Master of the Rolls, the Chief Justice or Judge of the Court of King's Bench, the Chief Justice or Judge of the Court of Common Pleas, and the Chief Baron of the Court of Exchequer, shall have full power and authority, upon application to that effect, from the said Keeper General, in writing, signed by any *Three* or more of them, to issue directions to the said Keeper General to cause the destruction of any Papers, Parchments or Documents which they may deem unworthy of preservation; and the said directions so issued in writing, together with a certificate from the said Keeper General that such directions have been implicitly obeyed, shall be preserved in the said General Record Office as a record of the destruction of such Papers, Parchments or Documents, and shall be received as evidence of such destruction and of such authority so given for the same.

14.
Judges to regulate and amend the formation of modern Records.

And be it further Enacted, That it shall be lawful for the Lord High Chancellor, Master of the Rolls, the Judges of His Majesty's Courts of King's Bench, Common Pleas, and Barons of the Exchequer, or the *major* part of them, together with the said Keeper General, to issue orders and directions for the regulation, alteration and amendment of the size, shape and mode of making future Records, and of the materials required in the formation of all Records.

15.
Power to order the making of authentic copies of Records.

And be it further Enacted, That it shall be lawful for the said Keeper General to order and direct authentic copies to be made of any Public Records, and that such copies shall be certified as true and authentic copies by any *Two* of the Assistant Record Keepers aforesaid; and that the certificate of such copies shall be countersigned by the said Keeper General; and that all such copies so certified and countersigned as aforesaid, shall be of the same force, validity and effect as the original Records, and shall be received as primâ facie evidence in all Courts of Justice and before all legal tribunals.

16.
Powers to purchase private Indexes, and to print Calendars, Catalogues and Indexes.

And be it further Enacted, That the said Keeper General, with the consent of the Lord High Treasurer or Lords Commissioners of His Majesty's Treasury for the time being, or any *Three* or more of them, shall have power to purchase any Calendars, Catalogues and Indexes to Records claimed and proved to be private property, and that such purchase shall be deemed an expense incurred for the purposes of this Act.

17. Compensation.

And be it further Enacted, That it shall be lawful for all Keepers of Records, or any persons deriving emoluments from any office held by them or either of them, to which the custody of Records is attached, or from fees for searching or copying Records by virtue of any office held by them or either of them, before or at the *passing of this Act*, whose office, profits or emoluments shall in anywise be affected by the passing of this Act, to deliver to the said Keeper General a statement in writing of any losses they may thereby have sustained; and that the said Keeper General shall have power to examine the parties, and such other persons as he may think fit, and shall report such statements and examinations, with his opinion thereon, to the Lord High Treasurer or Lords Commissioners of His Majesty's Treasury, for the time being, or any *Three* or more of them, who shall have full powers to award such Compensation to the said Record Keepers and Officers as the said Lord High Treasurer or Lords Commissioners of His Majesty's Treasury, or any *Three* or more of them may deem fit: Provided always, That such Compensation shall be accounted pro tanto of any subsequent salary or emolument to which any such person may hereafter be entitled by virtue of any appointment to any other public office.

Public Records.

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B I L L

To provide for the safe Custody, better Preservation, and more convenient Use of the Public Records.

(Prepared and brought in by
Mr. Charles Buller, Mr. Hawes and
Sir Charles Lemon.)

Ordered, by The House of Commons, *to be Printed,*
24 *February* 1837.

58.

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B I L L

To vest the Rolls Estate in His Majesty, and to abolish certain Payments and Fees which form part of the Salary of the Master of the Rolls.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble:

WHEREAS the Mansion-house, Chapel, Messuages and Estates, commonly called the Rolls Estates, which are situate in and near Chancery Lane, in the County of Middlesex, and were formerly the site of the House or Hospital of Converts or converted Jews, and the hereditaments thereto belonging, were granted by King Edward the Third, by Letters Patent, bearing date the eleventh day of April in the fifty-first year of his reign, to remain and continue for ever to the Clerk or Keeper of the Rolls of Chancery for the time being, and to be annexed to the said office for ever; and in the Letters Patent by which the present Master of the Rolls has been appointed, and in every of the Letters Patent by which several preceding Masters of the Rolls respectively have been appointed, there have been thereby granted by His Majesty and His Royal predecessors respectively, to such Master of the Rolls respectively, the custody of the House or Hospital of the Converts, for the habitation of the said Keeper or Master of the Rolls, together with all edifices, yards, gardens and orchards to the same House or Hospital in anywise belonging or appertaining, to hold the same (together with such office of Keeper or Master of the Rolls) unto such person respectively during his life, with all rights and appurtenances whatsoever to the said office or to the House or Hospital aforesaid belonging or appertaining, the wages, fees, rewards, commodities, emoluments and profits whatsoever anciently in anywise accustomed and due to the same office, to be received yearly, together with all and all manner of other rights, liberties, pre-eminences, profits, emoluments, mansions, places and appurtenances whatsoever in anywise belonging or appertaining to the office aforesaid, in as ample manner and form as any other Keeper or Master of the Rolls or of the said House or Hospital was or were accustomed to receive and enjoy the same:

And whereas the said Rolls Estates consist of the Mansion-house, with the court-yard, garden, stable, coach-house and other houses and buildings thereunto belonging, the Chapel, called the Rolls Chapel, and several messuages and hereditaments, and a particular or rental of the said Estates is annexed by way of Schedule to this Act:

And whereas, by virtue of an Act passed in the twelfth year of King CHARLES the Second, intituled, "An Act empowering the Master of the Rolls for the time being to make Leases for years in order to new build the old Houses belonging to the Rolls;" and also an Act passed in the seventeenth year of the reign of King GEORGE the Third, intituled, "An Act to repeal an Act made in the twelfth year of King CHARLES the Second, intituled, 'The Master of the Rolls empowered to make Leases for years in order to new build the old Houses belonging to the Rolls, and for the better regulating the method of granting Leases of the said Rolls Estate, and for making Compensation to the Earl of Macclesfield and Sir Thomas Sewell for their beneficial rights and interests in certain Leases made of the Rolls Estate, and for regulating the method of making Leases of the said Estate for the future;'" the Master of the Rolls for the time being has from time to time granted leases of the said messuages and premises (the said Chapel of the Rolls and the said Mansion-house, court-yard, garden, stable, coach-house and other outhouses and buildings fit for the habitation and use of the Master of the Rolls only excepted):

And whereas by an Act passed in the first year of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act for appropriating to the use of the Master of the Rolls, for the time being, the Rents of the Rolls Estate and the Dividends of the Funds in the Court of Chancery arising from the surplus Rents of that Estate," it was enacted, that the sum of Four thousand and eighty-one Pounds Four Shillings and Four-pence, Three per Centum Bank Annuities, purchased in pursuance of the said Act of the seventeenth year of the reign of King GEORGE the Third, with the surplus of the rents and profits of the said Rolls Estates, and then standing in the name of the Accountant General of the Court of Chancery to the account "The Account of the Rolls Estate," should be and remain in the said Court to the said account called "The Account of the Rolls Estate," and should be and form a fund for the purpose (if necessary) of repairing, supporting and rebuilding the houses and premises called the Rolls Estate, and keeping the same insured from loss or damage by fire, (except the said Chapel and Mansion-house, with their appurtenances,) and be sold, applied and disposed of for those purposes, or any of them, by order of the Lord Chancellor, Lord Keeper, or Lords Commissioners of the Great Seal, from time to time as there might be occasion, and that the dividends, interest and annual produce thereof then due and thereafter to accrue due, might from time to time be paid by the said Accountant General without any order or draft for that purpose to the Master of the Rolls for the time being, subject, nevertheless, to any order of the Court as therein and hereinbefore is mentioned; and by the same Act it was further enacted, that the Master of the Rolls for the time being should after the passing of the said Act have and be entitled to receive the whole of the rents and profits of the said Estate, called " The Rolls Estate," after providing for the keeping in repair, and properly supporting and rebuilding and insuring from fire the said Houses and Premises, to and for his own use and benefit:

And whereas the said sum of Four thousand and eighty-one Pounds Four Shillings and Four-pence, Three per Centum Bank Annuities, remains standing in the name of the said Accountant General in the account aforesaid, and since the passing of the said hereinbefore in part recited Act of the first year of the reign of King George the Fourth the dividends and annual produce thereof, amounting to the annual sum of One hundred and twenty-two Pounds Eight Shillings and Eight-pence, and also the rents, issues and profits of the Rolls Estate (which on an average of the last two years amount to the annual sum of Two thousand one hundred and nineteen Pounds Sixteen Shillings) have been received by the Master of the Rolls for the time being as part of the emoluments of his office:

And whereas the Court in which the Master of the Rolls is accustomed to sit as one of the Judges of the Court of Chancery, out of Term, together with certain Rooms adjacent thereto necessary for the administration of justice there, form part of the said Mansion-house:

And whereas the other part of the said Mansion-house and the Garden and appurtenances thereto belonging are not at present used by or for the accommodation of the Master of the Rolls, and some of the Rooms in the said Mansion-house are occupied by Records belonging to His Majesty's Court of King's Bench:

And whereas, in pursuance of an Act passed in the Session of Parliament held in the sixth and seventh years of the reign of His present Majesty, intituled, " An Act to enable the Master of the Rolls to demise part of the Rolls Estate to the Society of Judges and Serjeants, the Master of the Rolls, with the consent and approbation of Three of the Lords Commissioners of His Majesty's Treasury, hath granted a Lease of part of the Garden belonging to the said Mansion-house to the said Society of Judges and Serjeants at Law, for a term of ninety-nine years at a pepper-corn rent, for the purpose of building Chambers for the Judges thereon:

And whereas by an Act passed in the fiftieth year of the reign of King George the Third, intituled, "An Act for building certain Offices for the Examiners, Cursitors, Clerks of the Crown and Clerks of the Petty Bag of the High Court of Chancery, and for making certain Regulations in the Examiner's Office of the said Court, and for making provision for such of the Examiners, Deputy Examiners and Clerks as from length of service or from age or infirmity are or shall be incapacitated from the due execution of their Offices, and for making provision for other Officers of the said Court, and for making other Payments in respect of the said Officers," the freehold of the Buildings in the Rolls Yard, Chancery Lane, where the business of the office of Examiners, and also of the offices of the Clerk of the Crown and Clerk of the Petty Bag is now carried on, with its rights, members and appurtenances, and all other premises, if any, which should thereafter be purchased for the purposes of the said Offices, together with all buildings then or thereafter to be erected thereon, were vested in the Master of the Rolls for the time being, for the use and for the purposes of the said Offices, and subject to such rules and regulations respecting the use and occupation thereof, and of the rooms and chambers thereto belonging or therewith occupied, as the Court of Chancery shall from time to time order and direct:

And whereas several of the most valuable records of the Chancery of England are deposited in presses in closets in the inside of the said Rolls Chapel, and on shelves and closets in the roof thereof:

And whereas the two Chaplains of the Master of the Rolls have respectively been appointed from time to time by the Master of the Rolls for the time being, and have officiated as preacher and reader in the performance of Divine Worship in the said Chapel:

And whereas an ancient yearly payment or sum of Four Pounds, chargeable upon and issuing out of the Rectory of Saint Dunstan in the West, in the City of London and the suburbs of the said City, is payable to the Master of the Rolls for the time being; and by an Act passed in the first year of the reign of his said Majesty King George the Fourth, intituled, "An Act for uniting the Rectory and Vicarage of the Parish of Saint Dunstan in the West, in the City of London and the suburbs of the said City, and for securing a certain annual payment

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payment to the Rector of the said Parish in lieu of Tithes;" it was enacted that the Rector of the said Parish shall be and remain subject to the payment of, and shall well and truly pay the said yearly payment or sum of Four Pounds to the Master of the Rolls for the time being on the Twenty-ninth day of September in each year:

And whereas the said Preacher hath also been accustomed to receive from the Masters, Six Clerks, Registrars and other Officers of the said Court of Chancery who are considered to be entitled to seats in the said Chapel, certain fees amounting to the yearly sum of Forty-nine Pounds Two Shillings and Eight-pence or thereabouts; and the said Reader has received the rents at which pews in the said Chapel have been let to persons not entitled to seats therein; and sums have been paid out of the rents and profits of the Rolls Estate to the said Preacher and Reader to make up to each of them, together with the said annual sums, fees and rents received by them respectively, the annual sum of One hundred Pounds; and there has also been paid out of the rents and profits of the said Rolls Estate the annual sum of Ten Pounds to the Clerk attending the performance of Divine Service at the said Chapel, and the annual sum of Nine Pounds or thereabouts to a Laundress for keeping the said Chapel clean:

And whereas certain ancient annual payments, amounting to the yearly sum of Forty-five Pounds Eighteen Shillings and Seven-pence, are payable to the Master of the Rolls for the time being by the Keeper and Clerk of the Hanaper in Chancery, out of the income and revenue of his office:

And whereas by an Act passed in the twenty-third year of the reign of King GEORGE the Second, intituled, "An Act for making good a Deficiency upon the Revenue of the Office of Keeper or Clerk of the Hanaper, and for preventing any future Deficiency therein to answer the public services provided for out of the same, and for augmenting the Income of the Office of the Master or Keeper of the Rolls;" it was enacted, that out of the duties granted by the said Act, and thereby directed to be paid into the receipt of his Majesty's Exchequer at Westminster, there should be issued and paid unto the Keeper or Clerk of the Hanaper in Chancery for the time being, or his deputy, a yearly sum not exceeding the sum of Three thousand Pounds, and that the said yearly sum of Three thousand Pounds, and also the yearly interest, dividends and proceeds which should arise or be produced from the surplus cash therein mentioned should be issued, paid, applied and accounted for, together with and as part of the ordinary income and revenue of the Hanaper Office, in such and the same manner as the income and revenue of the said Office had from time to time been issued, paid, applied and accounted for; and also the payment of the yearly sum of One thousand two hundred Pounds to the Master or Keeper of the Rolls for the time being:

And whereas out of the said annual sum of One thousand two hundred Pounds paid by the Clerk of the Hanaper as aforesaid, in pursuance of the said last-mentioned Act, there are now paid by the Master of the Rolls for Land-tax Duty and Stamps, sums of money amounting to the annual sum of Three hundred and thirty-one Pounds One Shilling and Sixpence, and also a fee of Two Guineas to the Clerk of the Hanaper, by which payment the amount of salary or pecuniary profit received by the Master of the Rolls in respect of the said sum of One thousand two hundred Pounds is reduced to the annual sum of Eight hundred and Sixty-six Pounds Sixteen Shillings and Sixpence:

And whereas by an Act passed in the sixth year of the reign of his late Majesty King George the Fourth, intituled, "An Act to provide for the augmenting the Salaries of the Master of the Rolls and the Vice-Chancellor of England, the Chief Baron of the Court of Exchequer and the Puisne Judges and Barons of the Courts in Westminster-hall, and to enable His Majesty to grant an Annuity to such Vice-Chancellor, and additional Annuities to such Master of the Rolls, Chief Baron and Puisne Judges and Barons on their Resignation of their respective Offices," it was enacted, that from and after the passing of the said Act, there should be issued and paid, and payable out of and charged and chargeable upon the Consolidated Fund of the United Kingdom of Great Britain and Ireland (after paying or reserving sufficient to pay all such sum and sums of money as had been directed by any former Act or Acts of Parliament to be paid out of the same, but with preference to all other payments which should or might thereafter be charged upon or payable out of the same fund,) to the several persons thereinafter mentioned, as an augmentation of their respective salaries and pecuniary profits belonging to the said respective offices, the several annual sums thereinafter respectively mentioned; (that is to say) to the Master of the Rolls of the Court of Chancery in England such sum as with the sums then payable to the said Master of the Rolls in pursuance of the said Act of the twenty-third year of the reign of his said Majesty King George the Second, and in pursuance of the said Act of the first year of the reign of his said Majesty King George the Fourth, and with the other fees and emoluments of the said office would make up the salary of the said office to the annual sum of Seven thousand Pounds, and to other persons therein named the several other annual sums therein mentioned:

And whereas the emoluments of the said office of Master of the Rolls referred to in the said last-mentioned Act, besides or in addition to the said interest, dividends and annual produce of the said sum of Four thousand and eighty-one Pounds Four Shillings and Four-pence, Three Pounds per Centum Bank Annuities, and the rents and profits of the said Rolls Estates (after making such payments thereout as aforesaid), and the said ancient payments made by the said Clerk of the Hanaper, amounting to the yearly sum of Forty-five Pounds Eighteen Shillings and Seven-pence, and the said yearly sum of One thousand Two hundred Pounds payable in pursuance of the said Act of the twenty-third year of the reign of King George the Second (after making such payments thereout as aforesaid), consist of fees and parts of fees and small ancient annual payments which are received or payable by the Registrars of the Court of Chancery, the Under Secretary of the Master of the Rolls, the Clerk of the Inrolments, the said Clerk of the Hanaper, the Clerks of the Petty Bag, the Clerk of the Rolls Chapel and other persons:

And whereas, if the said Rolls Estates and the other offices and estates now vested in the Master of the Rolls for the time being were vested in His Majesty, and placed under the management of the Commissioners of His Majesty's Woods, Forests, Land Revenues, Works and Buildings, the same, after making proper accommodation and provisions for the Court of the Master of the Rolls, and for the administration of justice in such court, and for the custody and deposit of the records and papers now placed in the Rolls Chapel, and the performance of divine worship in the said Chapel, and for the transaction of the business of the offices which are now in the said Rolls Yard, and after appropriating such part or parts thereof (if any) as may be thought expedient for the purposes of any of the offices connected with the Courts of Chancery or the Courts of Law, might be made more available for the public service, or more profitable than under the management of the Master of the Rolls for the time being, or the receiver appointed by him:

And whereas, in pursuance of the provisions of the said Act of the twenty-third year of the reign of King George the Second, there is now paid out of duties which form part of the said Consolidated Fund to the Clerk of the Hanaper an annual sum, to be paid over by him to the Master of the Rolls, who, out of the same, has to pay taxes and duties, which form part of the said Consolidated Fund, and then by virtue of the said first-recited Act receives back from the said Consolidated Fund the amount of such taxes and duties, and any other deficiency in the amount of his salary:

And whereas the several complicated transactions aforesaid would be rendered unnecessary, if the annual sum of One thousand two hundred and forty-five Pounds Eighteen Shillings and Seven-pence were deducted from the annual sum authorized to be paid to the Clerk of the Hanaper by the said last-mentioned Act, and the said ancient payments, amounting to the yearly sum of Forty-five Pounds Eighteen Shillings and Seven-pence, and the said yearly sum of One thousand two hundred Pounds, were no longer to be paid by the Clerk of the Hanaper to the Master of the Rolls, or accounted for as part of his annual salary:

And whereas the Fees payable to the Master of the Rolls by the Registrars of the Court of Chancery consist of the sum of Six Shillings and Eight-pence out of the fees received by them from the suitors upon every decree, or dismission, which are taxes on the administration of Justice, and the same could not, it is apprehended, be abolished by virtue of the Act passed in the third and fourth years of the reign of His present Majesty, intituled, "An Act for the regulation of the Proceedings and Practice of certain Officers of the High Court of Chancery in England," because the same had been made to contribute towards the payment of the salary of the Master of the Rolls:

And whereas the only Fees payable to the Master of the Rolls, which are received by his Under Secretary, are the sum of Five Pounds Seven Shillings and Sixpence upon the admission of every Sworn Clerk, and a sum of Five Shillings for allowing a Marshalsea Court writ or warrant to be executed within the Liberty of the Rolls:

And whereas it is expedient that the said fee or sum of Six Shillings and Eight-pence payable to the Master of the Rolls upon every decree or dismisson, and the said fees payable to the Master of the Rolls on the admission of clerks in court, and on leave to execute Marshalsea Court writs within the Liberty of the Rolls, should be abolished:

And whereas it will be more convenient and more consistent with the honour and dignity of the Master of the Rolls that the said full annual sum of Seven thousand Pounds should be received by him wholly out of the said Consolidated Fund, and that the said fees and payments now received by him and other the emoluments of his office should be paid into the receipt of His Majesty's Exchequer in case of the public Revenue, than that he should receive such fees, payments and emoluments, and have to account for the same as parts of his salary; **BE it therefore Enacted**, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the said Act of the seventeenth year of the reign of King GEORGE the Third (except so far as respects any Leases made in

1.
Act 17 Geo. 3: repealed.

pursuance

113

pursuance of the power therein contained), and also the said first-mentioned Act of the first year of the reign of King GEORGE the Fourth, shall be and the same are hereby Repealed: Provided always, That the repeal of the said Acts shall not revive any Act, or part of an Act, thereby respectively repealed.

2.
Rolls Estate to be vested in His Majesty as part of the Land Revenues of the Crown.

And be it Enacted, That from and after the *passing of this Act* the said Mansion-house, with the court-yard, garden, stable, coach-house and other houses and buildings thereunto belonging, and the said chapel and several messuages and hereditaments adjoining or near thereto, commonly called the Rolls Estate, or the House or Hospital of the Converts, of which a particular or rental is contained in the Schedule to this Act, and the rents which have accrued or shall accrue or become due for the same from the *Fifth* day of *January last*, and all other rents and hereditaments which are now vested in the Master of the Rolls by virtue of the Letters Patent by which he was appointed Master of the Rolls (other than and except the said office of Keeper or Master of the Rolls, Books, Writs and Records of the Chancery of England, and subject to such leases of parts of the hereditaments which are now subsisting and have been granted in pursuance of the powers of Acts of Parliament hereinbefore mentioned or any of them), and also the said Offices in the said Rolls Yard for the Examiners, Cursitors, Clerks of the Crown and Clerks of the Petty Bag of the High Court of Chancery, and all other messuages, lands and hereditaments which by virtue of any Act or Acts of Parliament, are vested in the Master of the Rolls for the time being, with their appurtenances, shall be and the same are hereby vested in His Majesty as part of the Possessions and Land Revenues of His Majesty, His heirs and successors, in right of the Crown, and shall no longer be granted as heretofore to the Master of the Rolls for the time being, or annexed to the said office, and shall be within the ordering and survey of the Court of Exchequer in England, and subject to the provisoes, powers and authorities contained in the Act passed in the tenth year of the reign of his late Majesty King GEORGE the Fourth, intituled, " An Act to consolidate and amend the Laws relating to the Management and Improvement of His Majesty's Woods, Forests, Parks and Chases of the Land Revenue of the Crown within the Survey of the Exchequer in England, and of the Land Revenue of the Crown in Ireland, and for extending certain Provisions relating to the same to the Isles of Man and Alderney," and in the Act passed in the second year of the reign of His present Majesty, intituled, " An Act for uniting the Office of the Surveyor-general of His Majesty's Works and Public Buildings with the Office of the Commissioners of His Majesty's Woods, Forests and Land Revenues, and for other purposes relating to the Land Revenues," and to all such other provisions, powers and authorities in every respect as the other Possessions and

Land Revenues of the Crown within the ordering and survey of the said Court of Exchequer are subject to.

3. Certain existing Offices and Courts to be continued or provided.

Provided always, and be it Enacted, That there shall be continued or provided and maintained the said Court of the Master of the Rolls as one of the Judges of the Court of Chancery, and the Rooms adjacent thereto, and now used for the administration of justice, or some other convenient Court and Rooms for the same purposes in the said Mansion-house, or upon or near the site thereof, or in some other convenient place, and a Chapel, called the Rolls Chapel, for the performance of divine worship in the said present Chapel, or upon or near the site thereof; and also offices to be used and occupied by the said Examiners, Clerks of the Crown and Clerks of the Petty Bag of the High Court of Chancery, for the use and purposes of their respective offices in the said offices now in the Rolls Yard, or upon or near the sites thereof, or in some other convenient places.

4. Commissioners of the Treasury to appropriate any part of the Rolls Estate for the purposes of any of the Courts.

Provided always, and be it Enacted, That it shall be lawful for the said Commissioners of His Majesty's Woods, Forests, Land Revenues, Works and Buildings, by the direction of the Lord High Treasurer, or any *Three* of the Commissioners of His Majesty's Treasury for the time being, at any time or times hereafter to appropriate any part or parts, which they may think proper, of the messuages, buildings, ground and hereditaments, now called the Rolls Estate, to or for the purposes of any of the Courts of any of the Judges of the Court of Chancery, or of any Courts of Law or Equity or Bankruptcy, or of any Office or Offices belonging to or connected with the business of any such Court or Courts, or for a depositary of the Records of the Court of Chancery, which are now accustomed to be kept in the said Rolls Chapel, or of any other Records of any other of His Majesty's Courts of Law or Equity, or other public Records, or for any other public purpose connected with the administration of justice, or the custody or preservation of records or documents, and for such purpose or purposes or any of them to cause any building or buildings thereon to be altered or pulled down, or any building or buildings to be erected thereon.

5. Account of Rent and Profits to be kept in the Office of the Commissioners of Woods and Forests.

And be it further Enacted, That the Commissioners for the time being of His Majesty's Woods, Forests, Land Revenues, Works and Buildings shall cause a separate and distinct account to be kept in the books of their office of the rents and profits and other monies received in respect of the hereditaments vested in His Majesty by virtue of this Act, and of the payment and application of the same; and, after deducting thereout all the expenses incidental to the collection and management of the same rents, profits and hereditaments, shall yearly and every year, on the or within *Thirty* Days thereafter, pay over the residue of the said rents and profits and other monies to be received as aforesaid into the receipt of His Majesty's Exchequer at Westminster to the account of the Consolidated Fund.

6. For paying Expenses of Act and other Costs.

And be it Enacted, That the said Accountant-general of the Court of Chancery shall and he is hereby required, by order or orders of the Master of the Rolls, to be made in a summary way upon the petition of any person who shall be appointed by the Lord High Treasurer, or any *Three* of the Commissioners of His Majesty's Treasury for the time being, by writing under his or their hands, to receive the monies to be produced by the sale of the said sum of Four thousand and eighty-one Pounds Four Shillings and Four-pence, Three per Centum Bank Annuities, now standing in the name of the said Accountant-general, "The Account of the Rolls Estate" as aforesaid, after payment of such costs as hereinafter are mentioned, to sell the said sum of Four thousand and eighty-one Pounds Four Shillings and Four-pence, Three per Centum Bank Annuities, and out of the monies to be produced by sale thereof, to pay to the person or persons named in such order or orders to receive the same, all the costs and charges of procuring and passing this Act, and of all proceedings had or to be had in pursuance thereof, which shall be directed to be paid thereout by such Lord High Treasurer, or *Three* of the Commissioners of His Majesty's Treasury, together with the costs of such petition and order, and all costs relating thereto, and to pay to the petitioner appointed to receive the same as aforesaid the residue of the monies to be produced by such sale, after payment of all such costs and charges as aforesaid, for the purpose of being paid by such petitioner into the receipt of His Majesty's Exchequer, and the same shall be carried to the credit of the Consolidated Fund of the United Kingdom of Great Britain and Ireland.

7. Money payable by Clerk of Hanaper out of Income to be discontinued.

And be it further Enacted, That from and after the *passing of this Act*, the said ancient payments, amounting to the yearly sum of Forty-five Pounds Eighteen Shillings and Seven-pence, payable by the Clerk of the Hanaper out of the income or revenue of his office to the Master of the Rolls for the time being shall be discontinued and be no longer payable.

8. Repeal of Provision in Act 23 Geo. 2.

And be it Enacted, That so much of the said Act of the twenty-third year of the reign of King George the Second, as directs the payment of the said sum of One thousand two hundred Pounds by the Clerk of the Hanaper to the Master of the Rolls shall be and the same is hereby Repealed.

9. Abolishing payment of certain Fees to the Master of the Rolls.

And be it Enacted, That from and after the *passing of this Act*, the said fee, or part of a fee received by the Master of the Rolls for the time being from the Registrars of the said Court of Chancery out of the fees received by them upon every decree or dismission, shall no longer be received or be payable to the use of the Master of the Rolls, or be received or payable to the said Registrars from the person or persons by whom such fees are payable to them; and also that the said fee received by or paid to the use of the Master of the Rolls upon the admission of any sworn Clerk, and the said fee received by or paid to the use of the Master of the Rolls for allowing a Marshalsea Court Writ or Warrant to be executed within the Liberty of the Rolls as hereinbefore is mentioned, shall no longer be received or payable.

10.
Master of the Rolls to be paid by Salary in lieu of Fees.

And be it Enacted, That from and after the *Fifth* day of *July One thousand eight hundred and Thirty-seven*, no fees or pecuniary profits whatever, other than and except such fees or pecuniary profits as shall have accrued or become payable previously to the said *Fifth* day of *July One thousand eight hundred and Thirty-seven*, and other than and except the salary directed to be paid by this Act, shall be received by or be payable to the use of the Master of the Rolls in respect of the execution of his office, and that all and every officers and persons who now receive for or pay to the Master of the Rolls for the time being any fees, portion or portions of fees, or any other sum or sums of money whatsoever in respect of his office, shall continue to receive the same or the like fees, portion or portions of fees and sums of money (except such as are hereby abolished) for the public use, and shall pay the same into His Majesty's Exchequer at such times and seasons as the same have been heretofore usually paid to the Master of the Rolls for the time being, or at such other times and seasons and in such manner and subject to such regulations as the Lord High Treasurer, or any *Three* of the Commissioners of His Majesty's Treasury for the time being, shall from time to time direct, and with such deductions and allowances only as have been heretofore usually made and allowed.

11.
Repeal of Provision in Act 6 Geo. 4.

And be it Enacted, That so much of the said Act of the sixth year of the reign of King GEORGE the Fourth, as relates to the salary of the Master of the Rolls, and requires an account of the amount of fees paid to him, or of sums of money received or payable to his use to be delivered from time to time to the Lord High Treasurer or Commissioners of the Treasury for the time being, shall be and the same is hereby Repealed.

12.
Salary to be paid to Master of Rolls in lieu of Fees.

And be it Enacted, That from and after the Fifth day of July One thousand eight hundred and Thirty-seven, there shall be issued and paid and payable out of and charged and chargeable upon the Consolidated Fund of the United Kingdom of Great Britain and Ireland (after paying or reserving sufficient to pay all such sum and sums of money as have been directed by any former Act or Acts to be paid *out of the same, but with preference to all other payments which shall or may hereafter be charged upon or payable out of the same fund), for the salary of the Master of the Rolls of the Court of Chancery in England, in lieu of all pecuniary fees and emoluments now received by him, the annual sum of Seven thousand Pounds, to be computed and commenced, in the case of the present Master of the Rolls, from the said Fifth day of July One thousand eight hundred and Thirty-seven, and to be computed and commenced, in the case of every succeeding Master of the Rolls from the death or resignation of his immediate predecessor, in like manner as if his appointment bore date the day next subsequent to the day of the death or resignation of his predecessor, which said annual sum of Seven thousand Pounds shall from time to time be payable and paid quarterly, free and clear from land tax, and all other taxes and deductions whatsoever, on the Fifth day of January, the Fifth day of April, the Fifth day of July and the Tenth day of October in each and every year, by even and equal portions, the first payment thereof to be made on the Tenth day of October next after the passing of this Act; and if any person having the office of Master of the Rolls shall die or resign such office, the executors or administrators of the person so dying or resigning such office shall be entitled to such proportionable part of the said salary as shall have accrued during the time that such person shall have executed the said office.*

13. *Salary to be paid to Preacher, Reader and Clerk.*

And be it further Enacted, That from and after the said Fifth day of July One thousand eight hundred and Thirty-seven, there shall be issued and paid and payable out of and charged and chargeable upon the Consolidated Fund of the United Kingdom of Great Britain and Ireland (after paying or reserving sufficient to pay all such sum and sums of money as have been directed by any former Act or Acts to be paid out of the same, but with preference to all other payments which shall or may hereafter be charged upon or payable out of the same fund), in lieu of the yearly payments now made out of the rents and profits of the said Rolls Estates, to the Preacher and Reader of the said Rolls Chapel, and to the Clerk attending the performance of Divine Service there, and for keeping the said Chapel clean, and on the same days or times, and in the same manner as the said annual salary of Seven thousand Pounds is hereinbefore directed to be issued and paid to the Master of the Rolls, the annual sum of

to the Preacher for the time being of the Rolls Chapel, to be paid and applied by him (in such proportions and in such manner as the Master of the Rolls for the time being shall think proper and direct) to the Preacher and Reader at the said Chapel, and to the Clerk attending the performance of Divine Worship therein, and in payment of the expenses attending the performance of Divine Worship at the said Chapel, and of keeping the said Chapel clean.

14. Master of the Rolls to have the same power of appointing Officers as he now exercises.

Provided always, and be it Enacted, That the Master of the Rolls for the time being shall be entitled to appoint all such officers (except the Receiver of the Rents of the Rolls Estate) as he would have been entitled to appoint if this Act had not been made, and that the present and all future officers appointed by the Master of the Rolls (except such Receiver as aforesaid) shall have all such and the same powers, authorities, jurisdictions and privileges, and shall be entitled to the same salaries, fees, profits and emoluments as they would have been entitled to, have, receive and enjoy if this Act had not been made.

THE

THE SCHEDULE

TO WHICH THIS ACT REFERS.

THE ROLLS ESTATE consists of the following Particulars:

The Mansion-house, in which is the Court.
The Chapel and Office thereto belonging.
The Secretary's Office.
Coach-house and Stables.
Porter's Lodge.
Robing Room.

Garden (a portion of which the Master of the Rolls has demised to the Society of Judges and Serjeants by virtue of the statute sixth and seventh William the Fourth, chapter forty-nine, for the purpose of building Judges' Chambers thereon.)

Also of the following Houses:

Number in Rental.	TENANTS	Number of Houses.	Expiration of the Term.	Yearly Rent. £.	s.	d.
	Fetter-lane.					
1	Holmes - - - -	123	5 July 1845 - -	38	–	–
2	Meharey - - -	129	5 July 1838 - -	25	–	–
3	Kennedy - - -	125	5 July 1846 - -	35	–	–
4	Oakley - - - -	119	5 January 1847 -	50	–	–
5	Price - - - -	115	5 July 1845 - -	35	–	–
6	Lightfoot - - -	133	5 January 1855 -	33	–	–
7	Coleman - - -	124	5 January 1857 -	31	10	–
8	West - - - -	117	5 July 1840 - -	44	–	–
9	Highatt - - - -	130	5 July 1847 - -	28	–	–
10	Reeve - - - -	118	5 July 1847 - -	54	–	–
11	Crookes - - - -	120	5 July 1845 - -	30	–	–
12	Batchelor - - -	112	5 January 1839 -	30	–	–
13	Mosley - - - -	113	5 January 1839 -	42	–	–
14	Savage - - - -	111	5 July 1841 - -	100	–	–
15	Maclean - - -	135	5 July 1848 - -	34	–	–
16	Smith - - - -	127	10 October 1851 -	73	10	–
17	Birch - - - -	116	5 January 1852 -	35	–	–
18	Shaw and Sons - -	136	5 January 1847 -	32	–	–
19	Levy - - - -	131	25 December 1840	30	–	–
20	Bealby - - - -	114	5 April 1840 -	30	–	–
21	Shaw - - - -	137	5 July 1847 - -	30	–	–
22	Quin - - - -	122	5 January 1839 -	25	–	–
23	Allingham - - -	121	5 January 1848 -	35	–	–
24	Sewell - - - -	132	5 January 1846 -	40	–	–
25	Talmage - - -	134	5 January 1848 -	36	–	–
26	Oakley - - - -	20	5 July 1850 - -	40	–	–
	Chancery-lane.					
27	Moulton - - -	18	5 July 1858 - -	56	–	–
28	Northcroft - - -	97	5 July 1843 - -	42	–	–
29	Walford - - -	8	5 January 1848 -	54	–	–

(continued.)

Number in Rental.	TENANTS.	Number of Houses.	Expiration of the Term.	Yearly Rent.		
				£.	s.	d.
	Chancery-lane—cont^{d}.					
30	Heath	11	5 January 1841	50	—	—
31	Steer	15	5 January 1845	63	—	—
32	Mayhew	19	5 July 1845	50	—	—
33	Acton	17	5 January 1840	35	—	—
34	Chilton	7	5 July 1838	52	10	—
35	Ryder	35	5 July 1838	50	—	—
36	Steel	12	—	60	—	—*
37	Baddeley	5	5 April 1856	70	—	—
37^{a}	Carlon	6	5 April 1856	93	—	—
38	Thomson	9	5 January 1845	54	—	—
39	Battye	20	—	40	—	—*
40	Davies	13	5 July 1852	60	—	—
41	Jones	10	5 January 1845	60	—	—
42	Hamilton	16	5 July 1838	36	—	—
43	Offord	98	10 October 1838	40	—	—
	Carey-street.					
44	Hepburn	61	5 January 1837	60	—	—*
	Rolls-buildings.					
45	Moy	1	5 April 1841	29	—	—
46	Reeve	4	5 July 1837	35	—	—
47	Legg	17	5 July 1847	38	—	—
48	Barrack	3	—	36	—	—*
49	Triston	2	5 January 1848	38	—	—
50	Smith	19	5 July 1845	38	—	—
51	Robertson	18	5 January 1848	40	—	—
52	Walker	19	5 July 1848	38	—	—
53	Hasterick	16	—	38	—	—*
54	Howlett	6	5 July 1845	34	—	—
	Waste Land at Norwood.					
55	Richardson	—	—	1	1	—

The leases of the houses which are distinguished by the mark (*) have expired.

The following offices; (videlicit)

The Subpœna Office.

The Examiner's Office.

The Crown Office in Chancery, and

The Petty Bag Office, and some rooms in which Records are deposited, are also situate upon the Rolls Estate; but, under the statute fiftieth George the Third, chapter one hundred and sixty-four, they are vested in the Master of the Rolls, in trust and for the purposes of the Act only.

Rolls Estate.

A

BILL

To vest the Rolls Estate in His Majesty, and to abolish certain Payments and Fees which form part of the Salary of the Master of the Rolls.

(Prepared and brought in by
Mr. Baring & Mr. Chancellor of the Exchequer.)

Ordered, by The House of Commons, *to be Printed,*
15 *June* 1837.

401.

A

BILL

For transferring and vesting the Royal Military Canal, Roads, Towing Paths, and the Ramparts and other Works belonging thereto, and all Estates and Property taken and occupied for the same in the Counties of Kent and Sussex, and also the Rates and Tolls arising therefrom, in the Principal Officers of His Majesty's Ordnance.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble: 47 Geo. 3, c. 70.

WHEREAS an Act was passed in the forty-seventh year of the reign of his late Majesty King GEORGE the Third, intituled, "An Act for maintaining and preserving a Military Canal and Road made from Shorncliff, in the County of Kent, to Cliff End, in the County of Sussex, and for regulating the taking of Rates and Tolls thereon;" whereby it was among other things enacted, That the Speaker of the House of Commons, the Lord High Treasurer of Great Britain, the First Commissioner of the Treasury, the Chancellor of the Exchequer, his Majesty's Principal Secretaries of State, the Commander in Chief of his Majesty's Forces, the Lord Warden of the Cinque Ports, the Secretary at War, the Master General of the Ordnance, and the Quartermaster General of his Majesty's Forces for the time being respectively, should be Commissioners for carrying on, completing, maintaining, regulating and managing the said Military Canal and Road, and Cuts and other Works thereof or belonging thereto, and then made or which might thereafter be made:

And whereas divers messuages, houses, buildings, lands, tenements and other hereditaments were and have been purchased and taken for the purposes of the said Canal and Military Road and other Works belonging thereto, and the same were, by the said Act, vested in the said Commissioners for and on behalf of his Majesty, his heirs and successors:

1 & 2 Geo. 4, c. 69.

And whereas another Act was passed in the first and second years of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act for vesting all Estates and Property occupied for the Ordnance Service in the Principal Officers of the Ordnance, and for granting certain Powers to the said Principal Officers:"

2 Will. 4, c. 25.

And whereas another Act was passed in the second year of the reign of His present Majesty, intituled, "An Act to extend and render more effectual two Acts of the first and second and third years of the reign of his late Majesty King GEORGE the Fourth, respecting the Estates and Property thereby vested in the Principal Officers of the Ordnance, and to facilitate the Public Business in the Ordnance Department:"

And whereas it hath been deemed expedient to place the management and control of the said Canal, Military Road and other Works belonging thereto, under charge of the Master General and the Principal Officers of the Ordnance; and it is therefore necessary that the same and all the Estates and Property belonging thereto should be vested in the said Principal Officers for the time being;

1.
The Royal Military Canal, &c. to be vested in the Principal Officers of the Ordnance for the Public Service.

BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT immediately from and after the *passing of this Act*, all and singular the said Military Canal, Military Road and Towing Paths, Cuts and other Works thereof or belonging thereto, and all messuages, houses, buildings, lands, tenements and other hereditaments purchased and taken for the purposes thereof, by virtue of the said Act of the forty-seventh year of the reign of his late Majesty King GEORGE the Third; and also all the rates and tolls thereby authorized and allowed to be established, fixed, demanded, collected, taken and recovered at or upon, or for or in respect of the said Canal, Road, Towing Path and other Works, and also all the rights, capacities, powers, authorities and duties granted to and vested in the said Commissioners by virtue of the said last-mentioned Act, shall be and the same are hereby respectively declared to be transferred to and vested in the Principal Officers of His Majesty's Ordnance for the time being, to be held, enjoyed and executed by them and their successors in office, in trust for His Majesty, His heirs and successors, for the public service; and all the powers, authorities, clauses, matters and things in the said last-mentioned Act contained shall extend and be applied to the said Principal Officers in as full and ample a manner to all intents and purposes as if they had been named therein instead of the said Commissioners.

2.
Powers of recited Acts of 1 & 2 Geo. 4, c. 69, and 2 Will. 4, c. 25, to extend to this Act.

And be it Enacted, That all the powers, authorities, provisions, regulations, clauses, matters and things in the said two several Acts of the first and second years of the reign of his late Majesty King GEORGE the Fourth, and the second year of the reign of His present Majesty, respectively contained, in relation to the Estates and Property thereby or by either of them vested in the Principal Officers of His Majesty's Ordnance, shall, so far as the same are or may be applicable thereto and are not inconsistent therewith, extend and be construed to extend to the said Canal, Roads, Paths and Works, and other the lands, hereditaments and premises, rates and tolls vested in the said Principal Officers by this Act, as fully and effectually to all intents and purposes as if such powers, authorities, provisions, regulations, clauses, matters and things were respectively, severally and separately repeated and re-enacted in and made part of this Act.

Royal Military Canal.

A

BILL

For transferring and vesting the Royal Military Canal, Roads, Towing Paths, and the Ramparts and other Works belonging thereto, and all Estates and Property taken and occupied for the same in the Counties of Kent and Sussex, and also the Rates and Tolls arising therefrom, in the Principal Officers of His Majesty's Ordnance.

(Prepared and brought in by
Sir Andrew Leith Hay and Lord Viscount
Howick.)

Ordered, by The House of Commons, *to be Printed,*
2 *June* 1837.

364.

10 *February* 1837.—7 WILL. IV.

A

BILL

To amend an Act of the Ninth Year of his late Majesty King GEORGE the Fourth, for the Preservation of the Salmon Fisheries in Scotland.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble:

WHEREAS an Act was passed in the Parliament of Scotland, in the second Parliament of King JAMES the First, in the year One thousand four hundred and Twenty-four, whereby it was forbidden that any Salmon be slain from the Feast of the Assumption of Our Lady until the Feast of Saint Andrew in Winter:

And whereas sundry other Acts were made and passed at divers times by the Parliament of Scotland for the Preservation of Salmon, which were ratified and confirmed by an Act passed by the said Parliament in the year One thousand six hundred and Ninety-six, intituled, "Act against Killers of Black Fish, and Destroyers of the Fry and Smolts of Salmon:"

9 Geo. 4. c. 39.

And whereas an Act was passed in the ninth year of the reign of his Majesty King GEORGE the Fourth, intituled, "An Act for the Preservation of the Salmon Fisheries in Scotland," whereby the said first recited Act was repealed:

And whereas the said Acts have been found inadequate to the purposes for which they were passed, inasmuch as it is found that one Close time is not suitable for all the Salmon Fishings and Rivers throughout Scotland, and it is expedient that the same should therefore and in other respects be altered, modified and amended;

1.
No Salmon Fishings during Close times specified in Schedule (A.)

BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the *Fourteenth* day of *September* in the year *One thousand eight hundred and Thirty-seven*, no Salmon, Grilse, Sea Trout or other fish of the Salmon kind, shall be taken in or from any River, Stream, Lake, Water, or any Estuary, Bay, Firth or Sea Loch whatsoever in Scotland, or on the Sea Coast thereof, during the several and respective periods mentioned and contained in the Schedule (A.) to this Act annexed, including such parts of such periods as shall occur after the said *Fourteenth* day of *September One thousand eight hundred and Thirty-seven*; and the several periods therein mentioned and contained shall be held to be the Close time for each of the Rivers, Streams, Lakes, Waters, Estuaries, Bays, Firths, Sea Lochs or Sea Coast comprised in the several districts described in the said Schedule.

2.
For the observance of Saturday's Slap.

AND whereas by the Acts of the Parliament of Scotland various provisions are enacted for the regulation of Cruives, and in particular for the observance of the Saturday's Slap; BE it Enacted, That it shall not be lawful to take any Salmon or fish of the Salmon kind in or by any Engine, Machine or Device of any kind or description whatever used or employed in the taking of Salmon or other fish of the Salmon kind in any River, Stream, Estuary, Bay, Firth or Sea Loch, or Sea Coast aforesaid, between *Six* of the clock of the night of Saturday and *Six* of the clock of the morning of Monday, but all such Cruives, Engines, Machines or Devices shall, during the periods prescribed for the observance of the Saturday's Slap in such Cruives, Engines, Machines or Devices respectively, be so opened or removed to the full extent required by the said Acts or this Act or any of them, as that an ample space shall be made and secured for the free passage of Salmon, according to the true intent and meaning of the said Acts of the Scottish Parliament and of the said recited Act of the ninth year of his late Majesty and of this Act; and any Person owning or renting or using any such Cruive, Engine, Machine or Device, and failing so to open or remove the same, and any Person using any means, device or contrivance to prevent the free passage through such Cruive, Engine, Machine or Device, or in any way or by any means wilfully frightening or scaring any Salmon or fish of the Salmon kind from passing through such Cruive, Engine, Machine or Device, and any Person taking therein any Salmon or fish of the Salmon kind during the aforesaid time, shall for every such offence forfeit and pay a sum not less than *Twenty* Pounds or more than *Thirty* Pounds: Provided always, That in cases in which the penalty prosecuted for shall be sought in respect of non-observance of the Saturday's Slap, in bag-net and stake-net fishings upon the Sea Coast, such penalty shall not be exigible where it shall be proved to the satisfaction of the

Judge trying such case, that such non-observance was occasioned by storm or stress of weather, or other the like unavoidable hinderance or prevention: Provided also, That nothing herein contained shall prevent or be construed to prevent fishing with Net and Coble according to law.

3.
For the regulation of Cruives.

And be it Enacted, That every Cruive-box shall be placed in the part of the River or Stream to which the Salmon or fish of the Salmon kind resort, in seeking a passage up such River or Stream; and no Cruive-dike shall be higher than *One Foot and a Half* above the surface of the water in which the same is placed, at the average height of such water when not in flood; and every Cruive-box shall be so constructed as that the inside of the sole or bottom thereof shall be level with the bed or channel of the River, and present no obstruction or obstacle to Salmon or fish of the Salmon kind passing into such Cruive; and where it is necessary to place such Cruive-box upon stones, such stones shall be so sunk or bedded in the bed or channel of the River as that the inside of the sole or bottom of the Cruive-box shall be level with such bed or channel; and the in-scales of every Cruive-box shall be so constructed as that no part of the bars thereof shall approach nearer to each other than *Three* Inches, and that such in-scales shall, during the time of fishing, be moveable and easily pushed back by Salmon or fish of the Salmon kind seeking to pass into the Cruive-box; and during Close time, or during the Saturday's Slap, such in-scales shall be wholly taken out, so that the space within the box shall present no obstruction or obstacle whatever to Salmon or fish of the Salmon kind passing through such Cruive-box, and the bars of the hecks of such Cruive-boxes shall be rungs of an oval shape, not exceeding *Four Inches and a Half* in the longest diameter, and *Two Inches and a Quarter* in the shortest diameter, and shall be placed perpendicularly, the smallest edges up and down the stream, at intervals of not less than *Three* Inches from rung to rung, at the nearest part of one rung to another, and such hecks shall, when the Cruive-box is opened for the Saturday's Slap, be either entirely removed and taken out, or so opened or fastened back as that the space required by law shall be completely free and clear; and any Person placing or constructing any Cruive or any Cruive-box or room or in-scales or hecks contrary to the provisions of this Act, or failing to remove such in-scales, or remove or fasten back such hecks, in manner hereby directed and required, and any Person using any plan, contrivance or device for scaring the fish, or for obstructing their free passage into such Cruive-boxes, or through the same, either when they ought, according to law, to be open, or at any other time, shall forfeit and pay a sum of not less than *Ten* Pounds, or more than *One hundred* Pounds, for such offence, besides being obliged forthwith to place and construct such Cruive or Cruive-box or room, in-scales or hecks, and to remove or fasten back such in-scales and hecks, in manner hereby directed, under a penalty of *Five* Pounds daily after the service upon such Person of any complaint to the Sheriff against such Person, as long as the provisions in that behalf herein contained shall not be fulfilled and carried into effect.

4.
Not to apply to Rivers owned by one Proprietor.

Provided always, and be it Enacted, That nothing herein contained in relation to the placing, constructing and regulating any Cruive, Cruive-box or room, in-scales or hecks, shall apply or be deemed or construed to apply to any River, the right to the Salmon Fishing whereof is vested in one proprietor only.

5.
Against placing fixed Engines in the mouths of Rivers.

And be it Enacted, That it shall not be lawful to place any fixed Engine, Net, Machine or Device, in or across the mouth of any River as to prevent the run of Salmon or fish of the Salmon kind up such River, and any person so placing any such fixed Engine, Net, Machine or Device shall be subject for every such offence to a penalty of not less than *Twenty* Pounds or more than *Thirty* Pounds; and upon complaint to the Sheriff, at the instance of any Proprietor of Salmon Fishings in such River, that any such fixed Engine, Net, Machine or Device is so placed contrary to the intent and meaning of this Act, it shall be competent and lawful to the Sheriff and he is hereby authorized and required to cite the party or parties complained of summarily to appear before him on the matter of such complaint, and to hear the parties thereupon vivâ voce; and if upon such hearing and upon view and inspection, if needful, of the subject matter of such complaint, either by the Sheriff or by the Inspector of the District, or such other Person or Persons as the Sheriff may appoint for that purpose, and upon report in such case made thereupon to the Sheriff, he shall be satisfied that such complaint is well founded, he shall, besides decerning for the penalty aforesaid, give orders for the removal or destruction forthwith of such fixed Engine, Net, Machine or Device at the expense of the party placing the same, against whom also he shall decern for the full costs of the complaint and proceedings.

6.
Regulation of Sluices of Mill Leads.

And be it Enacted, That the Owner or Tenant of every Mill occupying the same shall be obliged, when the Mill is not at work and after the Dams and Reservoirs for the use of the Mill (where there are any such) are filled with water, to keep shut the Sluice or Sluices of the Mill Lead, Course or Race of such Mill, so that the whole water of the River or Stream shall during such time pass down the bed or channel of such River or Stream, and no part thereof into such Lead, Course or Race, under a penalty, to be paid by the Person offending, of not less than *Five* Pounds, or more than *Ten* Pounds, for every such offence: Provided always, That nothing in this Act contained shall affect any question touching the rights of

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of any party to the use of any such Lead, Course, Race, Dam or Reservoir.

7. For the removal of Dams and Obstructions.

And be it Enacted, That from and after the said day of all Mill Dams, Dikes, Wears, Caulds and other permanent obstructions in any River, Stream or Water aforesaid, to the run of Fish up such River, Stream or Water, shall be so altered and constructed as to permit the free run of Fish over or through such Mill Dams, Dikes, Wears, Caulds and permanent obstructions in the main Stream, in the ordinary or mean state of such River, Stream or Water, or the Proprietor or Occupier of every such Dam, Dike, Wear, Cauld or obstruction, shall construct and place at such Dam, Dike, Wear, Cauld or obstruction such an escape or stair as will enable Salmon or fish of the Salmon kind freely and easily to ascend such Dam, Dike, Wear, Cauld or obstruction in the ordinary or mean state of such River, Stream or Water; and in case the Proprietor or Occupier of any such Mill Dam, Dike, Wear, Cauld or other permanent obstruction, shall neglect so to alter or construct the same, or to construct and place such escape or stair after a requisition in writing made to such Proprietor or Occupier to that effect, or left at his or her usual or last place of residence, it shall be lawful to the Inspector to be appointed as hereinafter directed, upon the information of any Proprietor of Salmon Fishings in any such River as aforesaid, to examine such Mill Dam, Dike, Wear, Cauld or other obstruction, and if needful for the free passage of Fish as aforesaid, to order and direct such alteration to be made thereon at the expense of the Proprietor or Occupier thereof, or such escape or stair to be constructed and placed at the joint expense of such Proprietor or Occupier, and of the Proprietors of the Salmon Fishings on such River, Stream or Water, as may with the least possible injury to such Proprietor or Occupier of such Dam, Dike, Wear, Cauld or obstruction effect the object intended by this Act; and such expense may be levied and recovered in the like manner as is herein directed regarding the levying and recovering the penalties and forfeitures and assessments hereby imposed: Provided always, That no such alteration, escape or stair shall prejudice the going of the Mills situate upon any such River, Stream or Water.

8. No liquids or refuse of Gas Manufactories to be suffered to run into Rivers.

And be it Enacted, That if any Gas Light Company or other Person or Persons manufacturing Gas, either for public sale or private use, shall at any time empty, drain or convey, or cause or suffer to be emptied, drained or conveyed, or to run or flow any washings or other waste liquids, or any noisome or offensive liquids, refuse, substances or things whatsoever arising or produced in the Gas Works of such Company or Person or Persons, or in the manufacture or process of making Gas by them or any of them, into any River, Stream, Lake, Water, Estuary, Bay, Firth or Sea Loch, to which Salmon or fish of the Salmon kind resort, or into any Stream, Aqueduct, Drain or Sewer flowing into or communicating with any such River, Stream, Lake, Water, Estuary, Bay, Firth or Sea Loch, then and in every such case such Company or Person or Persons shall forfeit and pay for every such offence a penalty of not less than *Twenty* Pounds or exceeding *Thirty* Pounds, over and above the sum of *Five* Pounds daily, as long as such washings, liquids, substances or things shall be caused or permitted so to flow after notice given to such Company, Person or Persons, or citation by the Sheriff on a complaint against such Company, Person or Persons, by or at the instance of any Proprietor of Salmon Fishings in any such River, Stream, Lake, Water, Estuary, Bay, Firth or Sea Loch into which such washings, liquids, substances or things are so caused or permitted to flow.

9.
Inspector may examine Cruives, &c.

And be it Enacted, That it shall be lawful for any Owner or any Tenant of any Salmon Fishing in any River, and for the Inspector, Water Bailiffs and other Officers to be appointed in manner hereinafter authorized and directed, and they are hereby empowered to inspect and examine any such Cruive, Engine, Machine or Device, or any such Mill Dam, Dike, Wear, Cauld and other permanent obstruction, or any Sluice, Mill Lead, Course or Race as aforesaid, for the purpose of ascertaining the construction and position of any such Cruive, Engine, Machine or Device, and whether such Mill Dam, Dike, Wear, Cauld or obstruction, or such Sluice, Mill Lead, Course or Run, or such washings or offensive liquids, or refuse from any Gas Work, be regulated, conducted and prevented, according to the directions hereby given, and for the ends and purposes hereby specified; and in case it be needful, to apply summarily to the Sheriff of the District for aid, which such Sheriff is hereby authorized and required to grant in enforcing the purposes and provisions of this Act.

10.
Appointment of Inspectors.

And be it Enacted, That for the better carrying into execution and enforcing the provisions of the said Acts and of this Act, it shall be lawful for the Sheriff of any County specified in the Schedule (B.) to this Act annexed, upon an application to him in writing by *Six* Proprietors of Salmon Fishings within any of the districts aforesaid situated in his County, from time to time to appoint an Inspector or Inspectors of the Fishings of such District for the purposes after mentioned, and also such Assistants as may be necessary to act with or for them, either occasionally or permanently; and on such application to dismiss such Inspectors and Assistants, and appoint others in their room.

11.
Duties of Inspectors.

And be it Enacted, That all Inspectors so to be appointed, shall respectively within his or their districts from time to time and at all times, upon the complaint or application of any Owner or Tenant of any Salmon Fishing, or at the discretion of such Inspector or Inspectors, examine and inspect the several Fishings included in such district, and shall ascertain and inquire if the several laws and provisions regarding the same are properly observed and executed; and if any such Inspector shall find any of the said laws or any parts or provisions thereof not duly observed and executed, so far as regards fishing within any Close time, or fishing in any manner contrary to law or the observance of Saturday's Slap, or the construction, position, regulation or removal of Cruives, Hecks, In-scales, Engines, Machines or Devices, or the height or breadth of any Mill Dam, Dike, Wear, Cauld and other permanent obstruction, or Escape or Stair, or the shutting by Mill Owners and others of the sluices of their Mill Leads, Courses or Races in manner herein prescribed, or the flowing or conveying washings, or offensive liquids or refuse from any Gas Work as aforesaid, such Inspector shall forthwith proceed against the offender or offenders, in the manner and to the effect by the said recited Acts and this Act authorized and directed, and for that purpose it shall be competent for such Inspector to apply summarily to the Sheriff or Sheriff Substitute of the County, in or through or adjoining to which any River, Stream, Estuary, Bay, Firth, Sea Loch or Sea Coast aforesaid shall run, who shall interpose his authority to enforce the observance of the said recited Acts and of this Act as aforesaid, and shall decern not only for the expenses attending such application or complaint, but of all the proceedings and operations which may be necessary for the complete enforcement and fulfilment of such provisions and directions, over and above the payment of the penalties hereby imposed.

12.
Expenses of Inspectors.

And be it Enacted, That the Salaries of the Inspectors shall be levied on and paid and borne by the several Proprietors of the Fishings comprised in the said several districts in the manner hereinafter provided for the payment of the salaries of Clerks, Water Bailiffs and other Officers, and the amount thereof shall be fixed by the said Proprietors, subject to the approbation of the Sheriffs, by whom they shall severally be appointed, but in no case exceeding Pounds; and all Assistants, Water Bailiffs and other Officers to be appointed under the authority of this Act, shall be under the direction and control of the Inspectors within their several districts, and the expense which shall be incurred in enforcing the laws as hereby directed, or in putting down and preventing illegal Fishing in any of the said districts, shall be borne and paid by the Proprietors of the Fishings within such districts respectively.

3.
Provision as to angling with the Rod.

And be it Enacted, That after the expiration of the period at which the Salmon Fishing of the several Rivers and Streams in Scotland shall respectively close as aforesaid, *Fourteen* clear Days shall be allowed during which it shall be lawful for the Proprietors of the Fishings of such respective Rivers, or such Person or Persons as shall be duly authorized by such Proprietors, by permission in writing, to angle with the Rod for Salmon, Grilse, Sea Trout, or other fish of the Salmon kind; any thing in this Act, or the said recited Act of the ninth year of the reign of his Majesty King GEORGE the Fourth, or any other Act or Acts to the contrary notwithstanding: Provided always, That it shall not be lawful for any Person to sell or expose for sale any Salmon or Grilse, Sea Trout or other fish of the Salmon kind, which shall be taken by the Rod, within such period of *Fourteen* Days respectively, under a penalty of not less than *Five* Pounds or more than *Ten* Pounds for each Salmon or other fish of the Salmon kind so sold or exposed for sale, to be recovered, at the instance of the Inspector of the District, or of any Proprietor or Tacksman of Salmon Fishings in the River, Stream or Water in which the Salmon or fish of the Salmon kind so sold was taken or otherwise, according to law.

14.
Penalty on not returning to the Water Salmon caught by Anglers in Close time.

And be it Enacted, That if any Person angling in Close time for Trout shall take any Salmon, or other fish of the Salmon kind, and shall fail forthwith to return the same to the water, such person shall forfeit and pay a penalty not exceeding *Five* Pounds for each Fish so taken and not returned to the water, to be levied and applied as penalties are by the said last-recited Act directed to be levied and applied.

15.
Meetings of Proprietors to assess themselves for Expenses.

And be it Enacted, That it shall be lawful for any *Two* Proprietors of Salmon Fisheries in any River, Stream, Lake, Water or Estuary communicating therewith, from time to time to call Meetings of all the other Proprietors of Salmon Fisheries in such River, Stream, Lake, Water or Estuary, or on the Sea-coast within the district for which such Meeting is called, by *Two* several advertisements in any Newspaper published in the County where such Meeting is to be held, or if no Newspaper be there published, then in any Newspaper published in any adjoining County, and also in one Edinburgh Newspaper at least *Fourteen* Days before such Meeting shall be held; and at such Meetings, in order that the value of such Fishings may be ascertained, all the Proprietors shall produce the Tacks or Rentals, or yearly value of their Fishings; and at such Meetings it shall be lawful for the majority of Proprietors in number and value attending, or represented, if absent, by their Factors, or by any other Proprietor present, holding a written mandate to act for them, and they are hereby required to assess the whole Proprietors of Salmon Fishings in such River, Stream, Lake, Water or Estuary, Bay, Firth or Sea Loch, and on the Sea-coast as aforesaid, in

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such sum or sums as they shall think necessary and fit, rateably according to the real rents of their respective Fisheries for the preceding year, for the purpose of enforcing this Act, and other the Acts and Laws regulating or relating to Salmon Fisheries; and if any Proprietor shall fail to produce at such Meetings the rental of such of his Fishings as may be let to Lessees or Tenants, or a just estimate of the value of such of his Fishings as may be in his own natural possession, or may be unlet, it shall be lawful for such Meeting to assess such Proprietor, failing as aforesaid, according to the best of their knowledge or belief of the value of the Fishings belonging to such Proprietor; and it shall be lawful for such Meetings to appoint, and out of the assessments to be so raised, to pay Clerks, Water Bailiffs and other officers, as they shall think fit; and to offer and give Rewards for the prevention of the destruction of Salmon or other fish of the Salmon kind, and Salmon Spawn or Fry; and all such assessments shall be recoverable in the Sheriff Court, at the instance of any Inspector or of any Clerk or other Person authorized by such Meeting, in the same manner and under the same provisions and regulations as small debts are now recovered, under an Act passed in the sixth year of the reign of his late Majesty, intituled, "An Act for the more easy Recovery of Small Debts in the Sheriff Courts in Scotland," and this, notwithstanding the amount of such assessment shall exceed *Eight* Pounds.

16. **Saving recited Acts.**

And be it Enacted, That the said recited Acts, and all the powers and provisions thereof, shall remain in full force and effect, excepting in so far as the same or any of them are hereby altered, repealed or amended.

17. **Act may be altered.**

And be it Enacted, That this Act may be varied, amended or repealed by any Act or Acts to be passed in the present Session of Parliament.

SCHEDULES to which this Act refers.

SCHEDULE (A.)

SHOWING the PERIODS of the CLOSE TIME to be observed within the several Districts following, respectively; videlicet,

FIRST DISTRICT:

From Duncansbayhead, in Caithness, to Tarbet Ness, in the county of Ross, comprising all the Rivers, Streams, Lakes, Waters, Estuaries and Sea-coast situate between these two points, from the *Twentieth* day of *August* to the *Fourteenth* day of *January*, both days inclusive.

SECOND DISTRICT:

From Tarbet Ness aforesaid to Fort George Point, in the county of Nairn, including the Beaulie Frith and the Rivers connected therewith, except the River Ness, from the *Twentieth* day of *August* to the *Fifth* day of *January*, both days inclusive; and for the said River Ness from the *Sixteenth* day of *July* to the *First* day of *December*, both days inclusive.

THIRD DISTRICT:

From Fort George Point aforesaid to the Knockhead of Cullen, in the county of Banff, from the *First* day of *September* to the *Seventeenth* day of *January*, both days inclusive.

FOURTH DISTRICT:

From the Knockhead of Cullen aforesaid to Trouphead, in the county of Banff, from the *Fourteenth* day of *September* to the *Thirty-first* day of *January*, both days inclusive.

FIFTH DISTRICT:

From Trouphead aforesaid to Dunnottar Castle, in the county of Kincardine, from the *First* day of *September* to the *Seventeenth* day of *January*, both days inclusive.

SIXTH DISTRICT:

From Dunnottar Castle aforesaid to the Redhead, in the county of Forfar, from the *Fourteenth* day of *September* to the *last* day of *January*, both days inclusive.

SEVENTH DISTRICT:

From the Redhead aforesaid to Fife Ness, from the *Twenty-seventh* day of *August* to the *Twelfth* day of *January*, both days inclusive.

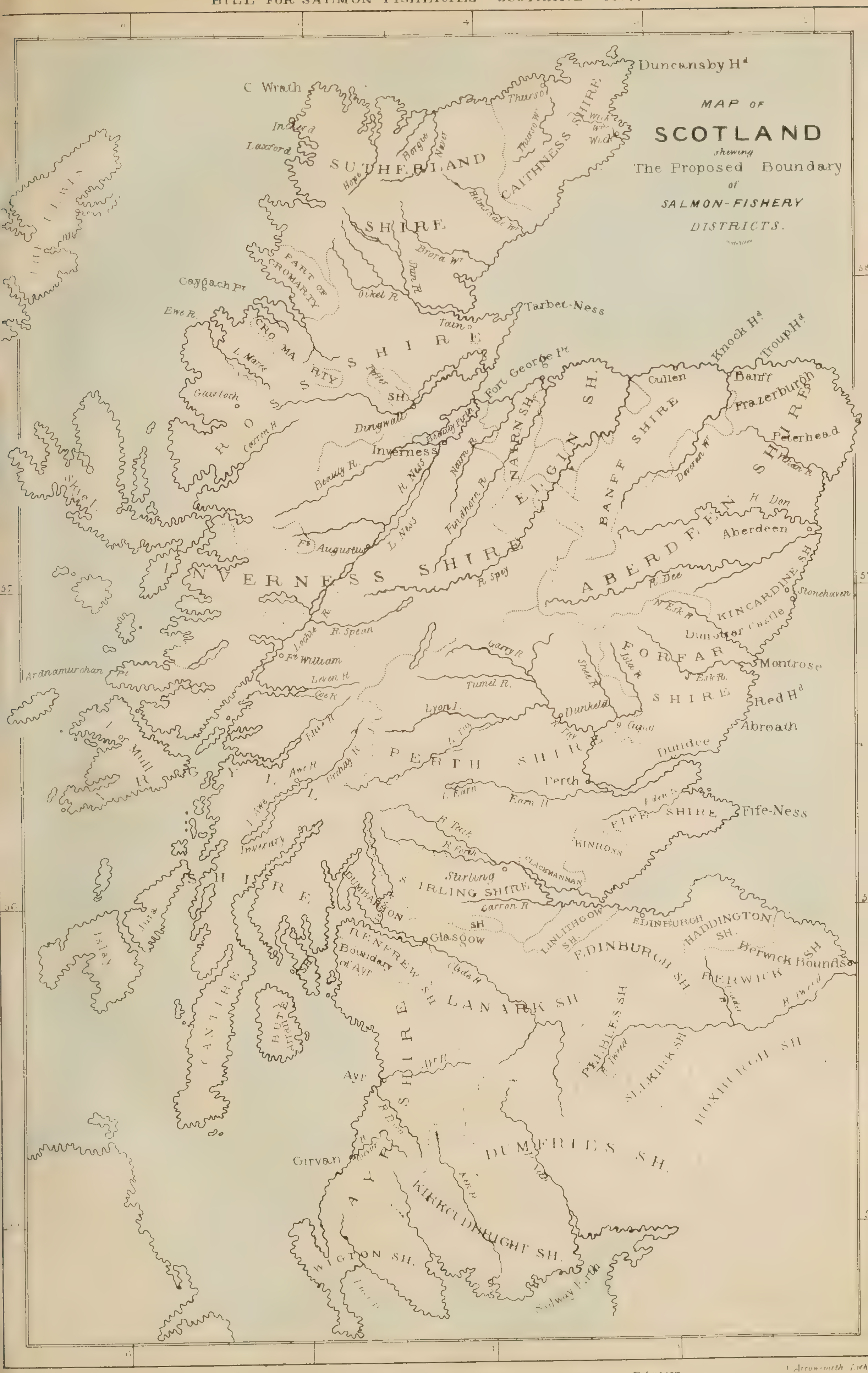
EIGHTH DISTRICT:

From Fife Ness aforesaid to Berwick Bounds, from the *Twenty-seventh* day of *August* to the *Twelfth* day of *January*, both days inclusive.

NINTH DISTRICT:

From the confines of the Solway Frith to the Northern Boundary of the county of Ayr, from the *Fourteenth* day of *September* to the *Thirty-first* day of *January*, both days inclusive.

BILL FOR SALMON FISHERIES - SCOTLAND - 1837.



MAP OF
SCOTLAND
shewing
The Proposed Boundary
of
SALMON-FISHERY
DISTRICTS.

26.

Ordered by The House of Commons to be Printed, 10 Feby 1837.

James and Luke G. Hansard & Sons Printers

J. Arrowsmith Lith

TENTH DISTRICT:

From the Northern Boundary of the county of Ayr to Ardnamurchan Point, in the county of Argyle, including all Western and other Islands situated within the parallels of the said two points, from the *Fourteenth* day of *September* to the *Thirty-first* day of *January*, both days inclusive.

ELEVENTH DISTRICT:

From Ardnamurchan Head aforesaid to the Point of the Coygach, in the county of Ross, with all the Western Islands situated within the parallels of these two Points, from the *First* day of *September* to the *Seventeenth* day of *January*, both days inclusive.

TWELFTH DISTRICT:

From the Point of Coygach aforesaid to Duncansbayhead first hereinbefore mentioned, from the *Twentieth* day of *July* to the *Sixth* day of *December*, both days inclusive; and for "the Lewis," from the *First* day of *August* to the *Seventeenth* day of *December*, both days inclusive; and for "Harris," from the *Tenth* day of *September* to the *Twenty-sixth* day of *January*, both days inclusive.

SCHEDULE (B.)

SHERIFFS by whom the several INSPECTORS to be appointed under this Act shall be named.

Districts 1 & 12.—The Sheriff of Sutherland.
„ - 2.—The Sheriff of Inverness.
„ - 3.—The Sheriff of Moray.
„ - 4.—The Sheriff of Banff.
„ - 5.—The Sheriff of Aberdeen.
„ - 6.—The Sheriff of Kincardine.
„ - 7.—The Sheriff of Perth.
„ - 8.—The Sheriff of Stirling.
„ - 9.—The Sheriff of Ayr.
„ - 10.—The Sheriff of Renfrew for the River and Firth of Clyde, extending from the confines of the county of Renfrew on the South, and the confines of the county of Dumbarton on the North, including all the Fishings of the said River; and also the Rivers and Lakes connected therewith.
The Sheriff of Argyle, from the confines of the counties of Dumbarton and Argyle to the Point of Ardnamurchan.
„ - 11.—The Sheriff of Ross.

Salmon Fisheries (Scotland.)

A

B I L L

To amend an Act of the Ninth Year of his late Majesty King George the Fourth, for the Preservation of the Salmon Fisheries in Scotland.

(*Prepared and brought in by*
Mr. Patrick Stewart and Mr. Loch.)

Ordered, *by* The House of Commons, *to be Printed*,
10 *February* 1837.

26.

22 *May* 1837.—7 WILL. IV.

A

BILL

To explain and amend an Act of the Sixth and Seventh Years of His present Majesty, for extinguishing the Secular Jurisdiction of the Archbishop of York and the Bishop of Ely in certain Liberties in the Counties of York, Nottingham and Cambridge.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble: 6 & 7 Will. 4. c. 87.

WHEREAS by an Act passed in the sixth and seventh years of the reign of His present Majesty, intituled, "An Act for extinguishing the Secular Jurisdiction of the Archbishop of York and the Bishop of Ely in certain Liberties in the Counties of York, Nottingham and Cambridge," it was amongst other things enacted, that all the secular authority of the Bishop of Ely in the Isle of Ely, in the county of Cambridge, and all authority of the Chief Justice of Ely, theretofore appointed by the Bishop of Ely, should, from and after the passing of the said Act, cease and determine, and all the secular authority of the said Bishop should become and be vested in His Majesty, His heirs and successors; provided always, that nothing therein contained should prevent any Justice of the Peace then acting for the said Isle from continuing to act as such within the limits of the said jurisdiction, as if the said Act had not been passed; and it was further enacted, that the county rates for the said Isle of Ely should remain, as theretofore, distinct from the rates for the rest of the county of Cambridge, and should be assessed and levied, and paid and applied by and under the order and direction of the Justices of the Peace for the said Isle, as if the same were a separate county, but in all other respects under the same regulations as were applicable to the rates of other counties in England; and it was further enacted, that no person should, from and after the passing of the said Act, be committed to the gaol at Ely, but all persons who, if the said Act had not passed, might have been committed to or confined in such gaol, might be committed to and confined in the gaol at Cambridge, and the Justices of the said Isle of Ely should have full power to commit to the said gaol at Cambridge; and all persons who at the time of the passing of the said Act should be confined in the said gaol at Ely, should, as soon as might be after the passing of the said Act, be delivered up by the keeper of the said gaol at Ely to the keeper of the said gaol at Cambridge, together with the warrant or instrument under or by virtue whereof every such person should be then detained in custody, and the keeper of the said gaol at Cambridge should receive and detain such persons in custody in the same way as if such persons had originally been committed to his custody:

Gaol for the county of Cambridge not situate at Cambridge.

County gaol meant to be the gaol referred to.

And whereas the gaol for the county of Cambridge is not locally situate within the town or borough of Cambridge, but is situate near thereto, and within the parish of Chesterton in the same county, and there is a gaol for the said town or borough which is situate within the precincts of the same: And whereas it is desirable to prevent any doubt as to the meaning of the said recited Act in regard to the gaol to which persons should be committed and removed from the said Isle of Ely, and to declare that by the gaol at Cambridge mentioned in the said Act, the gaol for the county of Cambridge for the time being was meant and intended:

Increased expenses occasioned to the county of Cambridge.

And whereas by the committal of Prisoners from the said Isle of Ely to the said county gaol, and the keeping and maintaining such Prisoners there, considerable expense will be occasioned to the said county of Cambridge, and in consequence thereof it may be necessary to enlarge the said gaol for the county of Cambridge; and it is therefore expedient that all expenses already occasioned or which may hereafter be occasioned thereby, as well as from the prosecution, trial, punishment, conveyance and transport of such Prisoners, should be charged on the said rates for the said Isle of Ely, and that there should be paid out of the said rates a due proportion of all expenses which may be incurred in rebuilding, improving or repairing the Shire-hall or other building for holding the Assizes or Sessions of the Peace for the said county;

BE it therefore Declared and Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament

liament assembled, and by the Authority of the same, THAT by the Gaol at Cambridge mentioned in the hereinbefore-recited Act was meant and intended the Gaol for the said county of Cambridge, situate at Chesterton in the same county; and that all persons who, if the said recited Act had not passed, might have been committed to or confined in the Gaol at Ely, shall be committed to and confined in the Gaol for the time being of and for the said county of Cambridge, and that the Justices of the said Isle of Ely shall have full power to commit to the said Gaol for the time being.

1. Gaol referred to in recited Act declared to be the County Gaol. All Ely Prisoners to be committed to the County Gaol for the time being.

And be it Enacted, That all expenses already incurred or which may hereafter be incurred under or by virtue of the said recited Act by the committal of persons from the said Isle of Ely to the gaol for the said county of Cambridge, and of the keeping and maintenance of such persons there, and also of the prosecution, trial, punishment, conveyance and transport of such Prisoners, and all other expenses occasioned by their being kept and detained in such gaol, or by the consequent and necessary increase of turnkeys and other attendants, or the alteration or enlargement of the said gaol, and also a due proportion of the expenses of the necessary repairs of the said gaol and of the general expenses of the establishment thereof for the time being, and also of all expenses which may be incurred in rebuilding, improving or repairing the Shire-hall or other building for holding the Assizes or Sessions of the Peace for the said county, shall be paid and satisfied out of the said rates for the said Isle of Ely, and (notice in writing of the amount of such expenses being given or transmitted by post by the Clerk of the Peace for the said county to the Clerk of the Peace for the said Isle half-yearly, specifying the time at which the same are required to be paid) the Justices of the Peace for the said Isle shall from time to time assess and levy the amount of such expenses, and use and exercise all powers, authorities and methods in regard thereto, in the same manner as they are and shall be empowered by law to assess and levy county rates, or rates in the nature of a county rate, within the said Isle for other purposes; and the amount of such expenses shall from time to time be paid by the Treasurers for the said Isle, or one of them, to the Treasurer for the said county, to be applied to the satisfaction of all such expenses accordingly, and such last-mentioned Treasurer shall be accountable for the same in the same manner as for other county rates received by him.

2. Expenses payable by the Isle of Ely.

And be it Enacted, That if at any time hereafter the Justices of the Peace for the said Isle shall refuse to make, assess and levy a rate

3. Settlement of Expenses.

rate for defraying any such expenses as aforesaid (and the non-payment thereof by the time to be specified in such notice shall be construed to be a refusal to make, assess and levy such rate), the Justices of the Peace for the said county and Isle respectively shall, at the respective General Quarter Sessions which shall be holden in and for the county and in and for the Isle next after such refusal respectively, appoint *Three* Justices of the Peace for the county and for the Isle; which Justices of the Peace so to be respectively appointed as aforesaid are hereby required to meet, at such time as shall be fixed for the purpose by the Chairman of such Quarter Sessions for the said county, at the gaol for the said county, and of which time of meeting notice in writing shall be given or transmitted by post by the Clerk of the Peace for the said county to the County Justices so to be appointed, and by the same Clerk of the Peace to the Clerk of the Peace for the said Isle, who shall give or transmit the same by post to the Isle Justices so to be appointed; and the Justices of the Peace so to be appointed as aforesaid, or the major part of them then and there assembled (such major part not being less than *Five* in number), shall hold a Special Sessions at the said gaol for the purpose of ascertaining and settling whether any and what expenses are chargeable in respect of any of the matters aforesaid on the rates of the said Isle, and the proportion of expenses in respect of any of the said matters which ought to be borne by the said county and Isle respectively; and the Clerk of the Peace for the said county shall attend such Special Sessions, and keep a record of the proceedings there, which record shall be evidence thereof; and the sum or sums which at any such Special Sessions as aforesaid shall be declared to be chargeable on the said Isle under this Act, shall be levied and raised in manner aforesaid.

Secular Jurisdiction (York and Ely).

A

BILL

To explain and amend an Act of the Sixth and Seventh Years of His present Majesty, for extinguishing the Secular Jurisdiction of the Archbishop of York and the Bishop of Ely in certain Liberties in the Counties of York, Nottingham and Cambridge.

(*Prepared and brought in by*
Mr. Solicitor General and Mr. Attorney General.)

Ordered, by The House of Commons, *to be Printed,*
22 *May* 1837.

331.

9 *June* 1837.—7 Will. IV.

A

BILL

[AS AMENDED BY THE COMMITTEE AND ON RE-COMMITMENT]

To explain and amend an Act of the Sixth and Seventh Years of His present Majesty, for extinguishing the Secular Jurisdiction of the Archbishop of *York* and the Bishop of *Ely* in certain Liberties in the Counties of *York*, *Nottingham* and *Cambridge*.

[Note.—*The Clauses marked* (A.) *and* (B.) *were added by the Committee.*]

Preamble: 6 & 7 Will. 4. c. 87.

WHEREAS by an Act passed in the last Session of Parliament, intituled, "An Act for extinguishing the Secular Jurisdiction of the Archbishop of *York* and the Bishop of *Ely* in certain Liberties in the Counties of *York*, *Nottingham* and *Cambridge*," it was amongst other things enacted, that all the secular authority of the Bishop of *Ely* in the Isle of *Ely*, in the county of *Cambridge*, and all authority of the Chief Justice of *Ely*, theretofore appointed by the Bishop of *Ely*, should, from and after the passing of the said Act, cease and determine, and all the secular authority of the said Bishop should become and be vested in His Majesty, His heirs and successors; provided always, that nothing therein contained should prevent any Justice of the Peace then acting for the said Isle from continuing to act as such within the limits of the said jurisdiction, as if the said Act had not been passed; and it was further enacted, that the county rates for the said Isle of *Ely* should remain, as theretofore, distinct from the rates for the rest of the county of *Cambridge*, and should be assessed and levied, and paid and applied by and under the order and direction of the Justices of the Peace for the said Isle, as if the same were a separate county, but in all other respects under the same regulations as were applicable to the rates of other counties in *England*; and it was further enacted, that no person should,

should, from and after the passing of the said Act, be committed to the gaol at *Ely*, but all persons who, if the said Act had not passed, might have been committed to or confined in such gaol, might be committed to and confined in the gaol at *Cambridge*, and the Justices of the said Isle of *Ely* should have full power to commit to the said gaol at *Cambridge*; and all persons who at the time of the passing of the said Act should be confined in the said gaol at *Ely*, should, as soon as might be after the passing of the said Act, be delivered up by the keeper of the said gaol at *Ely* to the keeper of the said gaol at *Cambridge*, together with the warrant or instrument under or by virtue whereof every such person should be then detained in custody, and the keeper of the said gaol at *Cambridge* should receive and detain such persons in custody in the same way as if such persons had originally been committed to his custody:

Gaol for the county of Cambridge not situate at Cambridge.

And whereas the gaol for the county of *Cambridge* is not locally situate within the town or borough of *Cambridge*, but is situate near thereto, and within the parish of *Chesterton* in the same county, and there is a gaol for the said town or borough which is situate within the precincts of the same:

County gaol meant to be the gaol referred to.

And whereas it is desirable to prevent any doubt as to the meaning of the said recited Act in regard to the gaol to which persons should be committed and removed from the said Isle of *Ely*, and to declare that by the gaol at *Cambridge* mentioned in the said Act, the gaol for the county of *Cambridge* for the time being was meant and intended:

Increased expenses occasioned to the county of Cambridge.

And whereas by the committal of Prisoners from the said Isle of *Ely* to the said county gaol, and the keeping and maintaining such Prisoners there, considerable expense will be occasioned to the said county of *Cambridge*, and in consequence thereof it may be necessary to enlarge the said gaol for the county of *Cambridge*; and it is therefore expedient that all expenses already occasioned or which may hereafter be occasioned thereby, as well as from the prosecution, trial, punishment, conveyance and transport of such Prisoners, should be charged on the said rates for the said Isle of *Ely*, and that there should be paid out of the said rates a due proportion of all expenses which may be incurred in rebuilding, improving or repairing the Shire-hall or other building for holding the Assizes or Sessions of the Peace for the said county;

BE it therefore Declared and Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament

liament assembled, and by the Authority of the same, THAT by the Gaol at *Cambridge* mentioned in the hereinbefore-recited Act was meant and intended the Gaol for the said county of *Cambridge*, situate at *Chesterton* in the same county; and that all persons who, if the said recited Act had not passed, might have been committed to or confined in the Gaol at *Ely*, may be committed to and confined in the Gaol for the time being of the said county of *Cambridge*; and that all Justices who, if the said Act had not been passed, might have committed to the Gaol of the said Isle of *Ely*, shall have full power to commit to the Gaol for the time being of the said county of *Cambridge*.

1. Gaol referred to in recited Act declared to be the County Gaol. All Ely Prisoners to be committed to the County Gaol for the time being.

And be it Enacted, That in every case in which any person shall be committed for trial by any Justice of the Peace acting for the said Isle, or for any borough therein, before the Judge of Assize and Gaol Delivery in and for the county of *Cambridge*, it shall be lawful for the said Judge before whom such person shall be tried, in case of his conviction, to order and direct, if such Judge shall think fit, such person to be imprisoned in any House of Correction within the said Isle, instead of the Gaol for the said county of *Cambridge*.

2. CLAUSE (A.) Any prisoner committed by Justice of Peace of the Isle, may, on conviction before Judge of Assize, be imprisoned within the Isle.

And be it Enacted, That all expenses already incurred or which may hereafter be incurred under or by virtue of the said recited Act by the committal of persons from the said Isle of *Ely* to the gaol for the said county of *Cambridge*, and of the keeping and maintenance of such persons there, and also of the prosecution, trial, punishment, conveyance and transport of such Prisoners, and all other expenses occasioned by their being kept and detained in such gaol, or by the consequent and necessary increase of turnkeys and other attendants, or the alteration or enlargement of the said gaol, and also a due proportion of the expenses of the necessary repairs of the said gaol and of the general expenses of the establishment thereof for the time being, and also a due proportion of all expenses which may be incurred in rebuilding, improving or repairing the Shire-hall or other building for holding the Assizes or Sessions of the Peace for the said county, shall be paid and satisfied out of the said rates for the said Isle of *Ely*, and (notice in writing of the amount of such expenses being given or transmitted by post by the Clerk of the Peace for the said county to the Clerk of the Peace for the said Isle half-yearly, specifying the time at which the same are required to be paid) the Justices of the Peace for the said Isle shall from time to time assess and levy the amount of such expenses, and use and exercise all powers, authorities and methods in regard thereto, in the same manner as they are and shall be empowered by law to assess and levy county rates, or rates in the nature of a county rate,

3. Expenses payable by the Isle of Ely.

rate, within the said Isle for other purposes; and the amount of such expenses shall from time to time be paid by the Treasurers for the said Isle, or one of them, to the Treasurer for the said county, to be applied to the satisfaction of all such expenses accordingly, and such last-mentioned Treasurer shall be accountable for the same in the same manner as for other county rates received by him.

4.
Settlement of Expenses.

And be it Enacted, That if at any time hereafter the Justices of the Peace for the said Isle shall refuse to make, assess and levy a rate for defraying any such expenses as aforesaid (and the non-payment thereof by the time to be specified in such notice shall be construed to be a refusal to make, assess and levy such rate), the Justices of the Peace for the said county and Isle respectively shall, at the respective General Quarter Sessions which shall be holden in and for the county and in and for the Isle next after such refusal respectively, appoint Three Justices of the Peace for the county and for the Isle; which Justices of the Peace so to be respectively appointed as aforesaid are hereby required to meet, at such time as shall be fixed for the purpose by the Chairman of such Quarter Sessions for the said county, at the gaol for the said county, and of which time of meeting notice in writing shall be given or transmitted by post by the Clerk of the Peace for the said county to the County Justices so to be appointed, and by the same Clerk of the Peace to the Clerk of the Peace for the said Isle, who shall give or transmit the same by post to the Isle Justices so to be appointed; and the Justices of the Peace so to be appointed as aforesaid, or the major part of them then and there assembled (such major part not being less than Five in number), shall hold a Special Sessions at the said gaol for the purpose of ascertaining and settling whether any and what expenses are chargeable in respect of any of the matters aforesaid on the rates of the said Isle, and the proportion of expenses in respect of any of the said matters which ought to be borne by the said county and Isle respectively; and the Clerk of the Peace for the said county shall attend such Special Sessions, and keep a record of the proceedings there, which record shall be evidence thereof; and the sum or sums which at any such Special Sessions as aforesaid shall be declared to be chargeable on the said Isle under this Act, shall be levied and raised in manner aforesaid.

5.
CLAUSE (B.)
Act may be repealed or altered.

And be it Enacted, That this Act may be repealed or altered by any other Act in this present Session of Parliament.

Secular Jurisdiction (York and Ely).

A

BILL

[AS AMENDED BY THE COMMITTEE AND ON RE-COMMITMENT]

To explain and amend an Act of the Sixth and Seventh Years of His present Majesty, for extinguishing the Secular Jurisdiction of the Archbishop of *York* and the Bishop of *Ely* in certain Liberties in the Counties of *York*, *Nottingham* and *Cambridge*.

(Prepared and brought in by
Mr. Solicitor General and Mr. Attorney General.)

Ordered, by The House of Commons, *to be Printed,*
9 *June* 1837.

387.

3 *July* 1837.—1 Vict.

A

BILL

[AS AMENDED ON SECOND RE-COMMITMENT]

To explain and amend an Act of the Sixth and Seventh Years of His late Majesty, for extinguishing the Secular Jurisdiction of the Archbishop of *York* and the Bishop of *Ely* in certain Liberties in the Counties of *York*, *Nottingham* and *Cambridge*.

[Note.—*The Clauses marked* (A.) *and* (B.) *were added by the Committee; and the Clauses* (C.), (D.) *and* (E.), *on second Re-commitment.*]

Preamble: 6 & 7 Will. 4. c. 87.

WHEREAS by an Act passed in the last Session of Parliament, intituled, "An Act for extinguishing the Secular Jurisdiction of the Archbishop of *York* and the Bishop of *Ely* in certain Liberties in the Counties of *York*, *Nottingham* and *Cambridge*," it was amongst other things enacted, that all the secular authority of the Bishop of *Ely* in the Isle of *Ely*, in the county of *Cambridge*, and all authority of the Chief Justice of *Ely*, theretofore appointed by the Bishop of *Ely*, should, from and after the passing of the said Act, cease and determine, and all the secular authority of the said Bishop should become and be vested in His Majesty, His heirs and successors; provided always, that nothing therein contained should prevent any Justice of the Peace then acting for the said Isle from continuing to act as such within the limits of the said jurisdiction, as if the said Act had not been passed; and it was further enacted, that the county rates for the said Isle of *Ely* should remain, as theretofore, distinct from the rates for the rest of the county of *Cambridge*, and should be assessed and levied, and paid and applied by and under the order and direction of the Justices of the Peace for the said Isle, as if the same were a separate county, but in all other respects under the same regulations as were applicable to the rates of other counties in *England*; and it was further enacted, that no person should, from and after the passing of the said Act, be committed to the gaol at *Ely*, but all persons who, if the said Act had not passed, might have been committed to or confined in such gaol, might be committed to and confined in the gaol at *Cambridge*, and the Justices of the said Isle of *Ely* should have full power to commit to the said gaol at *Cambridge*; and all persons who at the time of the passing of the said Act should be confined in the said gaol at *Ely*, should, as soon as might be after the passing of the said Act, be delivered up by the keeper of the said gaol at *Ely* to the keeper of the said gaol at *Cambridge*, together with the warrant or instrument under or by virtue whereof every such person should be then detained in custody, and the keeper of the said gaol at *Cambridge* should receive and detain such persons in custody in the same way as if such persons had originally been committed to his custody:

Gaol for the county of Cambridge not situate at Cambridge.

And whereas the gaol for the county of *Cambridge* is not locally situate within the town or borough of *Cambridge*, but is situate near thereto, and within the parish of *Chesterton* in the same county, and there is a gaol for the said town or borough which is situate within the precincts of the same:

County gaol meant to be the gaol referred to.

And whereas it is desirable to prevent any doubt as to the meaning of the said recited Act in regard to the gaol to which persons should be committed and removed from the said Isle of *Ely*, and to declare that by the gaol at *Cambridge* mentioned in the said Act, the gaol for the county of *Cambridge* for the time being was meant and intended:

Increased expenses occasioned to the county of Cambridge.

And whereas by the committal of Prisoners from the said Isle of *Ely* to the said county gaol, and the keeping and maintaining such Prisoners there, considerable expense will be occasioned to the said county of *Cambridge*, and in consequence thereof it may be necessary to enlarge the said gaol for the county of *Cambridge*; and it is therefore expedient that all expenses already occasioned or which may hereafter be occasioned thereby, as well as from the prosecution, trial, punishment, conveyance and transport of such Prisoners, should be charged on the said rates for the said Isle of *Ely*, and that there should be paid out of the said rates a due proportion of all expenses which may be incurred in rebuilding, improving or repairing the Shire-hall or other building for holding the Assizes or Sessions of the Peace for the said county;

BE it therefore Declared and Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament

1\.
Gaol referred to in recited Act declared to be the County Gaol. All Ely Prisoners to be committed to the County Gaol for the time being.

liament assembled, and by the Authority of the same, THAT by the Gaol at *Cambridge* mentioned in the hereinbefore-recited Act was meant and intended the Gaol for the said county of *Cambridge*, situate at *Chesterton* in the same county; and that all persons who, if the said recited Act had not passed, might have been committed to or confined in the Gaol at *Ely*, may be committed to and confined in the Gaol for the time being of the said county of *Cambridge*; and that all Justices who, if the said Act had not been passed, might have committed to the Gaol of the said Isle of *Ely*, shall have full power to commit to the Gaol for the time being of the said county of *Cambridge*.

2\.
Clause (A.)
Any prisoner committed by Justice of Peace of the Isle, may, on conviction before Judge of Assize, be imprisoned within the Isle.

And be it Enacted, That it shall be lawful for all Judges, Justices and others acting under any Commission of Gaol Delivery to direct that any person who shall have been committed for any crime from the said Isle of *Ely*, and who shall thereupon be convicted and sentenced to imprisonment, shall be imprisoned either in the Gaol or House of Correction of the said county of *Cambridge*, or in any Gaol or House of Correction at *Ely* or *Wisbeach*, or elsewhere, in the said Isle of *Ely*.

3\.
Expenses payable by the Isle of Ely.

And be it Enacted, That all expenses already incurred or which may hereafter be incurred under or by virtue of the said recited Act by the committal of persons from the said Isle of *Ely* to the gaol for the said county of *Cambridge*, and of the keeping and maintenance of such persons there, and also of the prosecution, trial, punishment, conveyance and transport of such Prisoners, and all other expenses occasioned by their being kept and detained in such gaol, or by the consequent and necessary increase of turnkeys and other attendants, or the alteration or enlargement of the said gaol, and also a due proportion of the expenses of the necessary repairs of the said gaol and of the general expenses of the establishment thereof for the time being, and also a due proportion of all expenses which may be incurred in rebuilding, improving or repairing the Shire-hall or other building for holding the Assizes or Sessions of the Peace for the said county, shall be paid and satisfied out of the said rates for the said Isle of *Ely*, and (notice in writing of the amount of such expenses being given or transmitted by post by the Clerk of the Peace for the said county to the Clerk of the Peace for the said Isle half-yearly, specifying the time at which the same are required to be paid) the Justices of the Peace for the said Isle shall from time to time assess and levy the amount of such expenses, and use and exercise all powers, authorities and methods in regard thereto, in the same manner as they are and shall be empowered by law to assess and levy county rates, or rates in the nature of a county rate, within the said Isle for other purposes; and the amount of such expenses shall from time to time be paid by the Treasurers for the said Isle, or one of them, to the Treasurer for the said county, to be applied to the satisfaction of all such expenses accordingly, and such last-mentioned Treasurer shall be accountable for the same in the same manner as for other county rates received by him: Provided always, That no enlargement of the said gaol shall be made until notice of such proposed enlargement shall be given by the Clerk of the Peace for the said county to the Clerk of the Peace for the said Isle, nor until the expediency of such enlargement shall have been submitted to the consideration of and shall have been agreed to by a joint committee of Six Justices of the Peace for the said county and Isle, to be appointed at the General or Quarter Sessions of the Peace to be holden for the said county and Isle respectively, next after such notice in the manner provided.

4.
Settlement of Expenses.

And be it Enacted, That if at any time hereafter the Justices of the Peace for the said Isle shall refuse to make, assess and levy a rate for defraying any such expenses as aforesaid (and the non-payment thereof by the time to be specified in such notice shall be construed to be a refusal to make, assess and levy such rate), the Justices of the Peace for the said county and Isle respectively shall, at the respective General or Quarter Sessions which shall be holden in and for the county and in and for the Isle next after such refusal respectively, appoint Six Justices of the Peace for the county and for the Isle in manner hereinafter mentioned; that is to say, the Justices of the Peace for the said county shall at such Sessions appoint Three Justices of the Peace for the said county, and the Justices of the Peace for the said Isle shall at such Sessions appoint Three Justices of the Peace for the said Isle; which Justices of the Peace so to be respectively appointed as aforesaid are hereby required to meet, at such time as shall be fixed for the purpose by the Chairman of such General or Quarter Sessions for the said county, at the gaol for the said county, and of which time of meeting notice in writing shall be given or transmitted by post by the Clerk of the Peace for the said county to the County Justices so to be appointed, and by the same Clerk of the Peace to the Clerk of the Peace for the said Isle, who shall give or transmit the same by post to the Isle Justices so to be appointed; and the Justices of the Peace so to be appointed as aforesaid, or the major part of them then and there assembled (such major part not being less than Five in number), shall hold a Special Sessions at the said gaol for the purpose of ascertaining and settling whether any and what expenses are chargeable in respect of any of the matters aforesaid on the rates of the said Isle, and the proportion of expenses in respect of any of the said matters which ought to be borne by the said county and Isle respectively; and the Clerk of the Peace for the said county shall attend such Special Sessions, and keep a record of the proceedings there, which record shall be evidence thereof; and the sum or sums which at any such Special Sessions as aforesaid shall be declared to be chargeable on the said Isle under this Act, shall be levied and raised in manner aforesaid.

5. Clause (C.) Justices of the Peace for the Isle of Ely to possess the same Powers as Justices of the Peace for Counties.

And be it Enacted, That all Justices of the Peace acting in and for the said Isle of *Ely*, shall from and after the passing of this Act have and possess and may exercise all such and the same rights, privileges, powers and authorities whatsoever within the said Isle of *Ely*, as any Justice of the Peace acting in and for any county, riding or division, now hath or possesses, or may exercise in such county, riding or division.

6. Clause (D.) Mutual Powers given to Justices of the Peace for the County and for the Isle to apprehend Offenders out of their respective limits.

And be it Enacted, That it shall and may be lawful from and after the passing of this Act for any Justice of the Peace acting in and for the said county of *Cambridge* and he is hereby authorized to issue under his hand and seal any warrant or warrants for the apprehension of any person or persons residing or being within the said Isle of *Ely*, charged on oath before him the said Justice with any felony or misdemeanor committed in the said county of *Cambridge*; and in like manner for any Justice of the Peace acting in and for the said Isle of *Ely*, and he is hereby authorized to issue under his hand and seal any warrant or warrants for the apprehension of any person or persons residing or being within the said county of *Cambridge*, charged on oath before him the said last-mentioned Justice with any felony or misdemeanor committed in the said Isle of *Ely*; and the constables or constable, or other person to whom any such warrant or warrants shall or may be addressed or directed, are and is hereby authorized to apprehend and take any such person or persons so charged on oath as aforesaid (and whose name or names shall be inserted in such warrant or warrants) with any such felony or misdemeanor committed in the said county of *Cambridge* or in the said Isle of *Ely*, without indorsement of such warrant or warrants by any Justice of the Peace of the said county of *Cambridge*, or of the said Isle of *Ely*.

7. Clause (E.)

AND whereas the townships of *Feliskirk* and *Sutton-under-Whitestonecliffe*, in the parish of *Feliskirk*, and townships of *Kilburn* and *Marton Lordship*, in the county of *York*, are locally situated within the north riding of the said county, and yet for certain purposes are esteemed to be within the liberty of *Ripon*, in the said county, heretofore part of the secular jurisdiction of the Archbishop of *York:* And whereas the said townships are distant upwards of fourteen miles from *Ripon* aforesaid, and it is highly expedient that the said townships should be entirely separate and distinct from the said liberty of *Ripon* ; BE it therefore Enacted, That from and after the passing of this Act, the said townships of *Feliskirk* and *Sutton-under-Whitestonecliffe*, and the said townships of *Kilburn* and *Marton Lordship*, be absolutely removed and separated out of and from the said liberty of *Ripon*, and out of and from the jurisdiction thereof, and become parts of the said north riding, to all intents and purposes whatsoever, and be solely within the jurisdiction of the said north riding, any custom or usage to the contrary thereof in anywise notwithstanding.

8.
Clause (B.)
Act may be repealed or altered.

And be it Enacted, That this Act may be repealed or altered by any other Act in this present Session of Parliament.

Secular Jurisdiction (York and Ely).

A

BILL

[As amended on second re-commitment]

To explain and amend an Act of the Sixth and Seventh Years of His late Majesty, for extinguishing the Secular Jurisdiction of the Archbishop of *York* and the Bishop of *Ely* in certain Liberties in the Counties of *York*, *Nottingham* and *Cambridge*.

(Prepared and brought in by Mr. Solicitor General and Mr. Attorney General.)

Ordered, by The House of Commons, *to be Printed,*
3 July 1837.

474.

3 *February* 1837.—7 WILL. IV.

A

BILL

To make certain Alterations in the Duties of the Lords Ordinary, and in the Establishment of Clerks and Officers of the Court of Session and Court of Commission for Teinds in Scotland, and to reduce the Fees payable in those Courts.

[Note.—The Words and Figures printed in *Italics* are proposed to be inserted in the Committee.]

Preamble.

WHEREAS the number of Officers attached to the Court of Session in Scotland, and the Fees or Emoluments paid to them, were at first established by usage or by Acts of Sederunt of that Court:

50 G. 3. c. 112.

And whereas by an Act passed in the fiftieth year of the reign of his Majesty King GEORGE the Third, intituled, "An Act for abridging the form of extracting Decrees of the Court of Session in Scotland, and for the Regulation of certain parts of the Proceedings of that Court," a Fee Fund was established, and the Dues of Court, or the Fees and Emoluments of the Clerks and other Officers, were partially regulated:

55 G. 3. c. 42.

And whereas by an Act passed in the fifty-fifth year of the reign of his Majesty King GEORGE the Third, intituled, "An Act to facilitate the Administration of Justice in that part of the United Kingdom called Scotland, by the extending Trial by Jury to Civil Causes," a considerable addition was made to the Judicial Establishment in Scotland, and payments were appointed to be made in the form of Salaries out of the Duties and Revenues of Scotland, which by Acts passed in the seventh and tenth years of the reign of her Majesty Queen ANNE were made chargeable with the Fees, Salaries and other Charges allowed or to be allowed by her Majesty, her heirs and successors, for keeping up the Courts of Session, Justiciary and Exchequer in Scotland:

55 G. 3. c. 70. And whereas by another Act passed in the fifty-fifth year of the reign of his said Majesty King GEORGE the Third, intituled, "An Act for better regulating the Formation and Arrangement of the Judicial and other Records of the Court of Session in Scotland," an alteration and reduction were made in the number of Officers and Keepers of the Records, and an alteration was made in the mode of appointment of these Officers:

59 G. 3. c. 35. And whereas by an Act passed in the fifty-ninth year of the reign of his said Majesty King GEORGE the Third, intituled, "An Act to amend an Act passed in the fifty-fifth year of the reign of His present Majesty, intituled, 'An Act to facilitate the Administration of Justice in that part of the United Kingdom called Scotland, by extending Trial by Jury to Civil Causes,'" an addition was made to the Officers of the said Jury Court, and certain Fees were authorized to be paid:

1 & 2 G. 4. c. 38. And whereas by an Act passed in the first and second years of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act for establishing Regulations respecting certain parts of the proceedings in the Court of Session, and in the Court of Commissioners for Teinds, and respecting the Duties, Qualifications and Emoluments of certain Clerks and other Officers of the said Courts," various alterations were made, and the appointment of new Officers authorized, and payments by Salaries to them and other Officers directed to be made:

6 G. 4. c. 20. And whereas by an Act passed in the sixth year of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act for the better regulating of the Forms of Process in the Courts of Law in Scotland," extensive alterations were made in the forms of procedure, and compensation out of the said Revenues of Scotland was authorized to be made to Clerks or Officers affected thereby, and a new form of citation and charge and intimation against defenders furth of the kingdom being introduced, and a Record thereof established, the Court of Session was authorized to fix an allowance for the trouble and expense thereby imposed on the Keeper of the Record, to be paid to him from the said Fee-Fund:

1 W. 4. c. 69. And whereas by an Act passed in the first year of the reign of His present Majesty King WILLIAM the Fourth, intituled, "An Act for uniting the Benefits of Jury Trial in Civil Causes with the ordinary Jurisdiction of the Court of Session, and for making certain other Alterations and Reductions in the Judicial Establishments of Scotland,"

provision was made for reducing the number of Clerks of Court, both Principal and Depute Clerks of Session; and the appointment of Depute Clerks and Assistant Clerks of Session was vested in His Majesty, and compensation was appointed to be made to Clerks and others suffering loss by the regulations introduced by the said last recited Act:

3 & 4 W. 4. c. 13.

And whereas by an Act passed in the third and fourth years of the reign of His present Majesty King WILLIAM the Fourth, intituled, "An Act to provide for the Execution of the Duties performed by the Barons of Exchequer in Scotland, in relation to the Public Revenue, and to place the Management of the Assessed Taxes and Land Tax in Scotland under the Commissioners for the Affairs of Taxes," various powers and duties formerly exercised by the Court of Exchequer in Scotland were transferred to the Commissioners of His Majesty's Treasury for the time being, or any Three of them, and the powers of fixing and paying the Compensations and Payments authorized to be fixed or made from the aforesaid Duties and Revenues of Scotland is transferred to the said Commissioners:

And whereas His present Majesty, by Commission, bearing date the Sixth day of June, One thousand eight hundred and Thirty-three, directed Letters Patent to be forthwith made and passed under the Seal appointed by the Treaty of Union to be kept and made use of in place of the Great Seal of Scotland, directing certain persons therein named to make a diligent and faithful inquiry into various matters relative to the Law and Administration of Justice in Scotland, and in particular "as to the Fees now exigible from Suitors in the Court of Session in Scotland, and the practicability of diminishing the same by reducing the establishment of Clerks and other Officers, now receiving such Fees or otherwise:"

And whereas His present Majesty, by Commission, bearing date the Sixteenth day of August, One thousand eight hundred and Thirty-four, directed Letters Patent to be forthwith made and passed under the Seal appointed by the Treaty of Union to be kept and made use of in place of the Great Seal of Scotland, directing certain persons therein named (in addition to the inquiries which they were directed to make by the said first-recited Commission) to make a diligent and full inquiry into various further matters relative to the Law and Administration of Justice in Scotland, and in particular "as to the Arrangement of Judicial Business in the Courts of Session and other Courts;" and also "as to the Numbers, Duties and Emoluments of the Clerks and other Officers employed in the Court of Session, and in the General Register House in connexion with the said Court, as also with any Office that may be required for Sequestrations, or for the Administration of the

Bankrupt Law, or otherwise;" and also "as to any and what Legislative measures ought to be brought forward in reference to the matters contained in this and the former Commission, with the view of diminishing Expense, removing Delay and improving the Administration of Justice in Scotland:"

And whereas the Commissioners so appointed have made Two Reports to His Majesty, which have been laid before Parliament:

And whereas, in order to improve the Arrangement of Judicial Business before the Lords Ordinary of the Court of Session, and to improve the Arrangements and Duties of the Clerks and other Officers of the said Court, and of the Court of Commission for Teinds in Scotland, and to diminish the Expense of the Administration of Justice, it is expedient that certain new Regulations should be adopted, together with a further Reduction of the Number of the Clerks and Officers of the said Courts, and that the Clerks or other Officers should derive their remuneration or emolument from Salaries of a fixed amount; and it is therefore necessary in some respects to alter or amend the said recited Acts and the existing practice:

1.
Junior Lord Ordinary to act as one of the permanent Lords Ordinary.

BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, THAT the junior Lord Ordinary of the Court Session for the time shall act as one of the permanent Lords Ordinary in the Outer-House, and shall be on the same footing in regard to the duties of preparing and deciding causes in the Outer-House with the other four permanent Lords Ordinary; and that on and after the *Eleventh* day of *November* next after the *passing of this Act* it shall accordingly be competent to enrol causes brought into Court for the first time before the junior Lord Ordinary, in the same manner as before any other of the four permanent Lords Ordinary, and the junior Lord Ordinary shall thereafter proceed in and determine the same in common form: Provided always, That (with the exception as to Actions of Reduction hereinafter mentioned) the other duties of the junior Lord Ordinary shall continue as at present; and provided also, that it shall be competent to the Court on the application of the junior Lord Ordinary, and in case of his being over-burthened with business, from time to time to relieve him of the duty of taking up a weekly roll of new causes for such time as may be thought proper.

2.
Actions of Reduction to be enrolled before any Lord Ordinary.

And be it Enacted, That on and after the said *Eleventh* day of *November* next, the present practice of enrolling all Recissory Actions or Actions of Reduction exclusively before the junior Lord Ordinary shall be discontinued, and it shall be competent to enrol such of the said description of actions as shall be brought into Court for the first time before any of the five Lords Ordinary in the Outer-House, who shall severally proceed to prepare and dispose thereof in common form.

3. Causes to be enrolled weekly before any Lord Ordinary.

And be it Enacted, That the present regulation, by which each of the four permanent Lords Ordinary is required in rotation to officiate as Ordinary for the week in the Outer House, shall be discontinued, and that on and after the said *Eleventh* day of *November* next it shall be competent to enrol in the weekly printed Roll, causes which shall then be brought into Court for the first time before any of the Lords Ordinary, without regard to such rotation, and it shall be competent to any Lord Ordinary to discharge the duties of Lord Ordinary on oaths and witnesses.

4. Lords Ordinary to be attached to either Division.

And be it Enacted, That the said Lords Ordinary in the Outer House shall not be exclusively attached to either Division of the Court, but shall be attached equally to both Divisions thereof; and that on and after the said *Eleventh* day of *November* next the Partibus written upon Summonses, Letters or Notes of Suspension, Advocation or other Writ, by which a cause shall be originated in the Outer House, shall set forth the particular Division of the Court to which the cause shall belong; and in the event of the cause being afterwards removed to the Inner House by Reclaiming Note, Cases or otherwise, it shall only be competent to carry the cause to the particular Division so set forth: Provided always, That the Division to which the cause is to belong shall be stated in the weekly printed Rolls: Provided also, That this Regulation shall not be held to apply to causes presently depending in the Outer House, but that all such causes shall continue to belong to that Division of the Inner House to which the Lords Ordinary before whom such causes now depend are severally attached.

5. Principal Clerks of Session.

And be it Enacted, That instead of Four Principal Clerks of the said Court of Session, and Four Principal Clerks connected with proceedings in Trials by Jury, being two Issue Clerks and two Record Clerks, the number of Principal Clerks shall be reduced, as hereinafter provided, to *Four* in all, who, in addition to the duties heretofore discharged by the Principal Clerks of Session, shall perform all duties belonging to the Principal Clerks connected with Trials by Jury, as hereinafter provided, and shall also discharge the duties of the present Clerks of the Bills in all Bill Chamber Proceedings which may take place in the Inner House of the Court of Session.

6. Vacancies of Principal Jury Clerks not to be filled up, and distribution of duties of Issue Clerks.

And be it Enacted, That in order to carry such reduction of the number of Clerks into effect, the vacancies which may occur in the offices of the said Four Principal Clerks, being the two Issue Clerks and two Record Clerks, connected with Trial by Jury, shall not be filled up; and as vacancies occur in the offices of the said two Issue Clerks, the duties now falling to be performed by them shall be discharged as follows: On the first of the said vacancies occurring it shall be competent to the Presidents in each Division of the Court, and they are hereby required to nominate one of the Principal Clerks in each Division who shall be conjoined with the remaining Issue Clerk in the performance of those Duties; and on the remaining vacancy occurring, the two other Principal Clerks shall be conjoined with the two Principal Clerks previously nominated as aforesaid in the performance of the said Duties in their several Divisions of the Court respectively, in the same manner as they have been performed by the present Issue Clerks; and the said Principal Clerks are hereby enjoined and required to consult, advise and act with the remaining Issue Clerk and with one another in the performance of the said Duties, for the purpose of preserving uniformity of practice.

7.
Distribution of duties of Record Clerks.

AND whereas by the present arrangement the senior Record Clerk is attached to the First Division of the Court in business connected with Jury Trial, and the junior Record Clerk is in like manner attached to the Second Division of the said Court; BE it Enacted, That as vacancies occur in the offices of the Record Clerks the duties now falling to be discharged by them in the Inner House, and at the Register House connected with Inner House causes, and at Jury Trials which take place at the sittings in Edinburgh, shall be performed by the two Principal Clerks of Session connected with the Division in which such vacancies shall severally occur, each Principal Clerk taking charge in the Inner House as aforesaid of those causes which depended in or belong to his own office; and the duties now falling to be discharged before the Lords Ordinary by the said Record Clerks and their Assistant, relative to causes connected with Trials by Jury, shall, from and after the *Eleventh* day of *November*, next be performed by the Depute and Assistant Clerks, each Depute and Assistant Clerk taking charge in the Outer House as aforesaid of those causes which depended in or belong to his own office; and the said causes so appropriated to Trial by Jury, or ordered to be so tried, shall not be sent to the Jury Clerk's Offices until the Record is ready to be closed and Issues are to be prepared: Provided always, That the practice of remitting such causes to the Jury Roll shall remain as at present.

8.
Duties of Inner House Clerks, &c.

And be it Enacted, That in case of absence from necessary cause of any Principal Clerk of Session, his duty shall be discharged by any person appointed by the Division of the Court to which such Principal Clerk may belong, either from among the Record or Issue Clerks, or any person duly qualified to hold the office of Principal Clerk of Session, Assistant Clerks in the Inner House, or the Depute Clerks in the Outer House; and all Interlocutors which have been or shall hereafter

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after be written by any such persons so appointed and acting under authority of the Court, being duly signed, shall be, and they are hereby declared to be valid and effectual, any law or practice to the contrary notwithstanding; and after the death, resignation or removal of the present Principal Clerk to the King's Processes, no payment shall be made to any Principal or Depute Clerk of Session as Clerk to King's Processes, and the said office of Clerk to King's Processes shall be, and the the same is hereby abolished from and after such vacancy occurring in the said office of Principal Clerk, and processes conducted on behalf of His Majesty shall thereafter be under the care of the Clerks of Session generally; and so much of the before-recited Act passed in the first and second years of the reign of his Majesty King GEORGE the Fourth as provides that in the event of a Principal Clerk of Session being appointed one of the Principal Clerks of the Bills, he shall receive an additional salary of Three hundred pounds per annum, shall be and the same is hereby repealed.

1 & 2 G. 4. c. 38.

9. Assistant Clerks in the Inner House.

And be it Enacted, That instead of Six Assistant Clerks of Session in the Inner House, these Assistant Clerks shall be reduced to *Four* in number, in manner herein provided; and no successors shall be appointed to the present Assistant Clerks connected with Jury Cases.

10. Duties.

And be it Enacted, That the Assistant Clerks in the Inner House shall, in addition to their other duties, take charge of all Bill-Chamber Cases brought into the Inner House, and shall in like manner take charge of all Jury Cases in the Inner House on the death, resignation or removal of all the present Issue Clerks and Record Clerks; and in case both or either of the Assistants of the Issue and Record Clerks shall resign or be removed, or predecease that event, the duties of such Jury Clerks' Assistant so resigning, removed or predeceasing shall in the meantime be discharged by such person or persons as may be superseded and placed upon retired allowance or compensation by the operation of this Act, or in such other way and manner as the Court of Session may direct, in virtue of the powers conferred by this Act.

11. Salaries.

And be it Enacted, That the Assistant Clerks in the Inner House, instead of being paid by fees, shall receive a fixed salary of *Three hundred and fifty* Pounds each per annum.

12. DeputeClerks in the Outer House and Assistants.

And be it Enacted, That instead of Six Depute Clerks of Session in the Outer House, and Six Assistant Clerks, the number shall be reduced to *Five* Depute, and, under the exception after mentioned, to *Five* Assistant Clerks; and, in addition to the duties at present performed by them, the Depute and Assistant Clerks shall take charge of all processes connected with Trial by Jury in the Outer House on the death, resignation or removal of the present Record Clerks in that department; and the Depute Clerks, with the exception of the Depute Clerk attached to the Junior Lord Ordinary and the Lord Ordinary on the Bills, shall attend in rotation the trials at circuit on the resignation, removal or death of the present Jury Clerks; each of the said Depute clerks so attending receiving an allowance of *Three Pounds Three Shillings* per day during his necessary absence from Edinburgh, in full of all expenses of each Circuit: Provided always, That a Depute and Assistant Clerk shall be attached to and shall attend at the bar of each Lord Ordinary in the Outer House, and that *One* of the Depute Clerks shall be attached to the Junior Lord Ordinary and to the Lord Ordinary on the Bills, as hereinafter provided, and shall have *Two* Assistants, both of whom shall be appointed by His Majesty, his heirs and successors, and *Two* separate Offices, the one office, under the charge of one Assistant, being devoted to the business of the Court of Session, and the other office, under the charge of the other Assistant, being devoted to the business of the Bill Chamber; and the offices and duties of the whole of the present Clerks in the Bill Chamber connected with Bill Chamber Procedure shall be and the same are hereby abolished; provided that no successor shall be appointed to the present Keeper of the Register of Abbreviates of Adjudications, but upon the death, resignation or removal of the present Keeper of the said Register, the said office of Keeper of the Register of Abbreviates of Adjudications shall be united with the office of Keeper of the Register of Hornings and Inhibitions, in such manner and subject to such conditions and regulations as His Majesty's Secretary of State for the Home Department for the time being shall be pleased to direct: Provided also, That in the event of inequality of business depending before a particular Lord Ordinary, the Lord President of either Division, on special application by such Lord Ordinary, is hereby empowered to require such person or persons as shall be superseded and shall be receiving compensation or retired allowance under this Act, or the Clerks, either Depute or Assistant, to officiate before any Judge or Judges; and the same proceeding shall take place in the case of the necessary absence of a Depute or Assistant Clerk.

13.
Salaries of Assistant Clerks in the Outer House.

And be it Enacted, That the remuneration of the Assistant Clerks employed in the business of the Outer House, instead of depending as at present upon fees, shall consist of a fixed Salary of *Three hundred and fifty* Pounds per annum each; and the said Assistant Clerks, both in the Inner and Outer House, are hereby prohibited from charging or receiving any Fees, except for Copies of Interlocutors or other papers ordered or required, for which an allowance shall be paid at the ordinary rate paid to Clerks for copying and stationery in the Court of Session: Provided always, That where upon remit from the Court or Lord Ordinary any of the said Depute or Assistant Clerks shall be directed to make investigations and prepare any report, calculation, or state, the charges therefor shall be regulated by the time and labour in each particular case, and shall be in all cases subjected to the review and taxation of the Auditor of Court, and the emoluments arising from such employment shall be paid into the Fee Fund.

14.
Duties and Salaries of Clerk of Bill Chamber and Assistant.

And be it Enacted, That the Depute Clerk employed to transact the business of the Bill Chamber shall, under the Principal Clerks of Session, have the whole charge of that department, and shall be responsible for the reputed solvency of Cautioners, and for consigned money, in like manner as the Bill Chamber Clerks are at present; and the remuneration of the said Depute, in respect of the duties to be performed by him both before the Junior Lord Ordinary and the Lord Ordinary on the Bills, shall consist of a Salary of *Five hundred* Pounds per annum; and the remuneration of the Assistant Clerks of the Bill Chamber shall consist of fixed Salaries of *Two hundred* Pounds per annum to the first Clerk, and *One hundred and fifty* Pounds per annum to the second Clerk; and the said Depute and Assistants are hereby prohibited to charge or receive any Fees except for copying Bills of Suspension and other Pleadings or papers, for which an allowance shall be paid at the ordinary rate paid to Clerks for copying and Stationery in the Court of Session, all other Fees hitherto paid in the Bill Chamber being hereby abolished, including the Fees on consigned Money and Interest during the period of Consignation.

15.
Distribution of Business, 1 W. 4. c. 69. s. 13.

AND whereas by the before recited Act of the first year of the reign of His present Majesty, it is enacted, That the two vacancies which should then next occur in the office of Principal Clerk of Session, as also in the office of Depute Clerk of Session, should not be supplied; and that in like manner the vacancies in the offices of the other Clerks belonging to the Court of Session should not be supplied until a certain event therein mentioned: AND whereas, in virtue of the said Act, certain vacancies which have since occurred have not been supplied, whereby the number of Principal Clerks of Session has been already reduced from Six to Four, and the number of Depute Clerks has been reduced from Six to Five, and the number of Assistants to the Depute Clerks has been reduced from Six to Four: AND whereas it is expedient and necessary, for the purpose of carrying into effect the purposes of the said Act last recited, in so far as not hereby altered, and of the present Act, that the business of the several offices should be duly apportioned among the remaining Clerks; BE it Enacted, That the current business in the office of the late Sir Walter Scott, baronet, Principal Clerk of Session, hereby abolished, shall be equally divided and transmitted to the offices or chambers of the Two Principal Clerks now attached to the First Division of the Court; and the current business in the office formerly belonging to Adam Rolland, Principal Clerk of Session, hereby abolished, shall in like manner be equally divided and transmitted to the offices or chambers of the Two Principal Clerks now attached to the Second Division; and the current business in each of the two offices in the Outer House, now corresponding to the said two Inner House Offices, shall be distributed and transmitted to the respective offices of the Depute Clerks, according as they shall be attached to the several Lords Ordinary in the Outer House before whom such Causes so to be transmitted presently depend: That James Denham, Assistant, shall come in the place of George Lang, Assistant, now deceased: That Hector Mason, Assistant, shall come in place of William Lang, Assistant, now deceased: That all actions of reduction now depending before the Junior Lord Ordinary in the other offices shall be transmitted to the office of the Depute Clerk attached to the Junior Lord Ordinary by this Act: That Adam Wilson, Depute Clerk, and his said Assistant, shall be transferred to and take charge of the business in the office now held by Thomas Beveridge and his Assistant: That John Pringle, Depute Clerk, and his Assistant, shall be attached to the business depending before Lord Corehouse; Thomas Bruce, Depute Clerk, and his Assistant, to the business depending before Lord Fullerton; Robert Menzies, Depute Clerk, and his Assistant, to the business depending before Lord Moncrieff; Adam Wilson, Depute Clerk, and his Assistant, to the business depending before Lord Jeffrey; Thomas Beveridge, Depute Clerk, and his present Assistant, to the business depending before Lord Cockburn; and the said Thomas Beveridge, with the addition of the *Two* Assistant Clerks hereinbefore provided, to the department of the Bill Chamber: That in terms of these regulations all causes depending before the several Lords Ordinary above named shall be transmitted to the respective offices of the Depute Clerks above named, according as they are to be severally attached to the said Judges and their successors: That those causes in the Inner House falling to be transmitted back to the Outer House shall be transmitted to the office of the Depute Clerk, who shall, in virtue of this Act, be attached to the Lords Ordinary to such causes respectively: That all causes which on or after the said *Eleventh* day of *November* next may come to depend in the offices of John Pringle and Robert Menzies, Depute Clerks, and which shall be removed by reclaiming note or otherwise to either Division of the Inner House, in terms of the provisions hereinbefore contained, shall be transmitted either to the office held by Adam Rolland, Principal Clerk in the first division, or to the office held by Thomas Thomson, Principal Clerk in the second division: That in like manner all causes removed to the Inner House from the offices of Thomas Bruce and Adam Wilson, Depute Clerks, shall be transmitted either to the office held by George Joseph Bell, Principal Clerk in the first division, or to the office held by James Fergusson, Principal Clerk in the second division: That all causes presently depending before the Junior Lord Ordinary, hereafter removed to the Inner House by reclaiming note or otherwise, shall be transmitted to the office of the Principal Clerk which corresponded with the office of the Depute Clerk in which such causes formerly depended: Provided always, That those causes which depended in the offices held by William Pringle, Depute Clerk, deceased, and by Adam Wilson, Depute Clerk, as well as all causes which, on or after the said *Eleventh* day of *November* next, may come to depend before the Junior Lord Ordinary in the Outer House, and which may be removed to the Inner House by reclaiming note or otherwise, shall be transmitted to the senior Principal Clerk's Office of that Division of the Court to which such causes shall belong, in terms of this Act; and the practice as to reclaiming notes from the Bill Chamber being lodged with any of the Inner House Clerks of either division of the Court shall remain as at present; and the same rule shall be followed with respect to the transmission of causes taken to report from the Bill Chamber.

16.
Judges' Clerks.

And be it Enacted, That the Salaries of each of the Judges' Clerks and Keepers of the Inner and Outer House Rolls, to be appointed after the death, resignation or removal of the present Incumbents, shall be *Four hundred* Pounds to each of the Keepers of the Inner House Rolls, instead of *Five hundred* Pounds as at present; and to the ordinary Judges' Clerks *Two hundred* Pounds per annum each, instead of *Three hundred* Pounds as at present; and so much of the said recited Act of the first and second years of his late Majesty King GEORGE the Fourth as provides that certain Allowances shall be paid by the Collector of the Fee Fund to such person or persons as should be appointed by the Court of Session, for forming a Fund for the purpose of providing eventual Life-rent Annuities to the Judges' Clerks and Keepers of the Inner House Rolls, shall be and the same is hereby repealed, reserving to the Parties interested in the Fund as at present established, and in the yearly payments directed to be made thereto by the said Act, a right to claim Compensation for such loss or damage as they may be able to qualify, as hereinafter provided.

1 & 2 G. 4. c. 38. s. 15.

17.
Extractors.

And be it Enacted, That instead of the duty of extracting the Acts and Decrees of the Court of Session being performed by four Extractors and eight Engrossing Clerks, nominated by the Principal Clerks of Session during pleasure, the duty of preparing Extracts shall be intrusted to *One* Principal Extractor, to be appointed by His Majesty, His heirs and Successors, which Principal Extractor shall not practise before the Court of Session or hold any official situation in the said Court other than in terms of this Act, and shall attend in and perform the duties of the office in person, with the aid of *One* Assistant, nominated by him and holding an appointment at pleasure under him, and for whom he is to be responsible, and who, in the event of absence, from necessary cause, of the Principal Extractor, shall be empowered to subscribe and authenticate the extracts; and the Principal Extractor shall from time to time employ such Engrossing Clerks as he shall think necessary for the performance of the business of the office: Provided always, That in any new appointments to be made under this Act a preference shall be given to such persons removed from any office under this Act who may be duly qualified to discharge the duties thereof.

18.
Salaries.

And be it Enacted, That the Principal and Assistant Extractors shall be paid wholly by Salaries, and that of the Principal shall be *Five hundred* Pounds per annum, and that of the Assistant shall be *Three hundred* Pounds per annum; and the Engrossing Clerks shall be paid at the rate usually paid to Clerks for the manual operation of copying, adding thereto the price of stationery; and it shall be held illegal and an act of malversation in office for the Principal or Assistant Extractor to participate in the charges for copying payable to such Engrossing Clerks.

19.
Keeper of the Records.

And be it Enacted, That when a Vacancy shall occur in the office of Keeper of the Records, established by the before-recited Act passed in the fifty-fifth year of the reign of his Majesty King George the Third, it shall not be competent to appoint a successor to the present Keeper; and the duties of the office shall be performed by the Principal Extractor and his Assistant, with the aid of a Clerk, in case it shall appear to the said Principal Extractor to be proper and necessary to appoint such Clerk, who shall receive such Salary, not exceeding *One hundred* Pounds per annum, as shall be fixed by the said Principal Extractor; and no fees shall hereafter be received by any person performing the duties of the said office.

20.
Keeper of the Minute Book and Record of Edictal Citations.

And be it Enacted, That when a vacancy shall occur in the office of Keeper of the Minute Book and of the Keeper of the Record of Edictal Citations, *One* Officer shall be appointed by His Majesty, His heirs and successors, who shall perform the duties of both offices; and these duties shall be performed by the holder of the said offices in person, with the aid of a Clerk to be appointed by him; and such Officer shall receive a fixed salary of *Three hundred* Pounds per annum, and his said Clerk shall receive a salary of *One hundred and thirty* Pounds per annum, in lieu of all fees or perquisites; Provided always, That upon the occurrence of the first vacancy in the said two offices, the duties of such office so first becoming vacant shall be performed by the Officer holding the other of the said two offices, and for performing the duties of the said two offices he shall receive *Three hundred* Pounds per annum, in case the salary and emoluments then receivable by him in respect of his said previous office shall not amount to that sum annually, and he shall be entitled to appoint a Clerk with a salary as aforesaid; and when a vacancy shall occur in the said office of Keeper of the Minute Book, the person or persons who shall hereafter perform the duties of the said office shall not charge or receive any fees or perquisites or any profits from the sale of the Minute Book.

21. Minute Book how to be printed.

And be it Enacted, That the Minute-Book of the Court of Session shall be printed by the Keeper thereof, and shall be sold by him to the public at the lowest rate which will defray the necessary expense of printing the same, and he shall annually exhibit an account thereof to the Auditor of Court, who is authorized to examine and audit the same.

22. Collector and Accountant of the Fee Fund.

And be it Enacted, That the salary and emoluments of the Collector of the Fee Fund shall not exceed *Four hundred* Pounds per annum, paid in the same manner as the present salary and emoluments are; and upon any vacancy hereafter occurring in the said office, his Successor shall be appointed by His Majesty and His heirs and successors; and the salary of the present Accountant of the Fee Fund, while he shall hold the said office, shall be *One hundred* Pounds: Provided always, That the offices of the said Collector and Accountant of the Fee Fund may be abolished by any Act to be passed during the present Session of Parliament, or to be hereafter passed, and their duties transferred to other persons.

23. Auditor to be paid by Salary.

And be it Enacted, That the Auditor of Accounts in the said Court instead of being paid by fees shall receive a fixed Salary of *Seven hundred* Pounds per annum, with the accommodation of office room, or such a reasonable allowance for the same as the said Court shall direct.

24. Macers.

And be it Enacted, That as vacancies occur, the Salaries allowed to each of the Macers of Court shall be limited to *One hundred* Pounds per annum.

25. Teind Clerks.

And be it Enacted, That the office and duties of the present Principal Clerk of the Commissioners for Teinds shall be and the same is hereby abolished, and the business heretofore discharged by the Teind Clerks shall be in future discharged by the present first and second Depute Clerks of Teinds and their successors in office, the said present first Clerk being hereafter to be named the Clerk of Teinds; and upon his death, resignation or removal, his successor shall be appointnd by His Majesty and His heirs and successors; and the said present second Clerk being hereafter to be named the Depute Clerk of Teinds, and upon his death, resignation or removal, his successor shall be appointed by the Clerk of Teinds for the time, and the salary of the Clerk of Teinds shall be *Three hundred* Pounds per annum, and the Salary of the Depute Clerk shall be *Two hundred and fifty* Pounds per annum, besides the emoluments respectively allowed to such Clerk and Depute Clerk by this Act.

26. Duties of the Teind Clerks; Extracts, Accounts, &c.

And be it Enacted, That the provisions and regulations for abridging the form of extracting Decrees of the Court of Session under the said recited Act of the fiftieth year of the reign of his late Majesty King GEORGE the Third shall be, and the same are hereby extended and applied to extracts of Acts and Decreets pronounced by the Court of the Commissioners for Teinds, except in processes of valuations of Teinds, and other cases where a full extract may be required; and the provisions and regulations which are or may be applicable to auditing of accounts of expenses in the Court of Session by the Auditor of Court shall be, and the same are hereby extended and applied to accounts of expenses in the Court of Commissioners for Teinds, which shall be subject to be audited and taxed by the said Auditor in like manner as accounts of expenses in the Court of Session; and the business of the Teind Office shall in other respects continue as at present: Provided always, That in those cases in which the Clerk of Teinds may be appointed by remit from the Court or Lord Ordinary, or may be employed by any party in a cause in the Teind Court as an accountant, or for the preparation of states, schemes or calculations for regulating or adjusting the rights of parties, the charges to be made by the said Clerk of Teinds shall be regulated according to the time and labour in each particular case, but subject to the review and taxation of the Auditor of the Court of Session in like manner as accounts of expenses; and the emoluments arising from such employment of and charges by the said Clerk of Teinds shall belong to such Clerk of Teinds: And provided also, That the said Depute Clerk of Teinds shall continue to discharge the Duty of extracting Decreets pronounced by the Court of Commissioners for Teinds, and shall draw the emoluments thereof as the same are regulated by this Act.

27. The Fee Fund.

And be it Enacted, That the Fees contained in the Schedule annexed to this Act, along with the Fees presently payable upon extracts of deeds recorded in the books of Council and Session, shall hereafter form and be paid into the Fee Fund of the Court of Session; and all other fees, dues and perquisites payable to the said Fee Fund, or to the Clerks or Officers of Court, or of the Commissioners for Teinds, are and shall be abolished, under the exceptions hereinbefore made; *and the salaries and allowances made and provided by this Act shall be payable quarterly, free of all deductions, out of the said Fee Fund, under the provisions, in case of insufficiency of the said Fund, contained in the before-*

before-recited Act of the fiftieth year of the reign of his Majesty King GEORGE *the Third.*

28. Officers of Court may be summarily removed for malversation.

And be it Enacted, That if any Clerk, Extractor or other Officer of Court shall neglect his duty, or shall be guilty of any malversation in office, or shall exact or receive any fees or perquisites other than those due to him in virtue of his office, or contrary to law, it shall be competent for the Court of Session, on such charge or charges being proved in any summary application, by petition and complaint at the instance of the party or parties aggrieved, or of His Majesty's Advocate for the time being, to pronounce such Judgment as in the circumstances of the case may seem just, not exceeding deprivation of office and expenses of the proceedings, besides the repayment of any such fees or perquisites unduly received, which shall be paid either to the party complaining or to the Fee Fund, as the Court shall direct.

29. Compensation.

And be it Enacted, That it shall be lawful for any Clerk or Officer of the Court of Session or other person entitled to compensation for loss to be suffered through the operation or effect of this Act, to make application to the Lord High Treasurer of the United Kingdom of Great Britain and Ireland, or to the Commissioners of His Majesty's Treasury for the time being, claiming such compensation, giving at the same time notice of such application to His Majesty's Advocate; and it shall be lawful for the said Lord High Treasurer or Commissioners of the Treasury to investigate such claim and call for such evidence in relation thereto as he or they may think necessary; and upon such claim being established to his or their satisfaction, the said Lord High Treasurer or Commissioners of His Majesty's Treasury, or any *Three* of them, is and are hereby authorized and empowered to award to such person such compensation as he or they shall think him entitled to, either by the payment of a gross sum, or by way of annuity, as he or they shall think proper: Provided always, That a copy of every such award for compensation shall be laid before both Houses of Parliament within *Two* calendar Months after the commencement of the Session next ensuing after making the same; and no such award shall be final and conclusive until *Two* calendar Months after the same shall have been so laid before Parliament: Provided also, That if any person to whom compensation shall be so awarded by way of annuity shall be afterwards appointed to any other Public Office, such compensation shall be accounted pro tanto of the Salary payable to such person in respect of such other office while he shall continue to hold the same.

30. Compensation how to be paid.

And be it Enacted, That the several compensations which may be awarded under the authority of this Act shall be payable and paid out of *of the monies which by the Acts of the seventh and tenth years of the reign of her Majesty Queen* Anne *were made chargeable with the fees, salaries and other charges allowed or to be allowed for keeping up the Courts of Session, Justiciary or Exchequer in Scotland.*

31.
Clerks appointed after January 1836, to have no Claim for Compensation.

And be it Enacted, That no Clerk or Officer who may be appointed to any of the offices hereinbefore mentioned after the *First* day of *January, One thousand eight hundred and Thirty-six* shall have any claim to compensation for loss of fees or loss of office from the operation or effect this Act, or of any Act passed during the present Session of Parliament.

32.
Annuity Fund to Judges' Clerks.
1 & 2 G. 4. c. 38.

AND whereas a fund has been accumulated under the provisions of the said recited Act of the first and second years of the reign of His Majesty King George the Fourth, and the Acts of Sederunt of the Court of Session relative thereto, for the purpose of providing eventual Life-rent Annuities to the said Judges, Clerks and Keepers of the Inner House Rolls, and the present Judges, Clerks and Keepers of the Inner House Rolls, and certain existing annuitants are interested in the said fund and in the contributions directed to be made thereto under the provisions of the said Act which are hereby repealed as aforesaid; BE it Enacted, That in case any compensation shall be awarded to the persons interested in the said fund and the payments directed to be made thereto, it shall be lawful to the said Lord High Treasurer and Commissioners and they are hereby empowered in awarding such compensation, if they shall see cause, to take and receive the said accumulated fund, and the holders thereof are hereby in that case authorized and required to pay and assign the same to the said Lord High Treasurer and Commissioners, or to such person or persons as they shall appoint; or otherwise the said accumulated fund may be dealt with and disposed of in such way and manner and under such regulations for the security and proper application thereof as to the said Lord High Treasurer and Commissioners may seem proper.

33.
Court of Session to make Acts of Sederunt.

And be it Enacted, That the Court of Session shall be and is hereby empowered from time to time to make such further regulations by Act of Sederunt as the said Court may deem meet for the purpose of carrying into effect the purposes of this Act, and of duly apportioning the business and regulating the duties to be performed by the several Clerks and Officers of Court, and which regulations such Clerks and Officers shall respectively be bound to observe; and the said Court may meet for the above purposes during vacation as well as during Session, and may alter and amend such regulations from time to time: Provided always, That within *Fourteen* Days from the commencement of every future Session of Parliament there shall be transmitted to both Houses of Parliament copies of all Acts of Sederunt passed under the powers herein given.

34. Acts repealed; this Act to take effect from last day of September next.

And be it Enacted, That all laws, statutes, Acts of Sederunt and Usages shall be, and the same are hereby repealed, in so far as they may be in any respect inconsistent or at variance with the provisions of this Act; and the whole provisions of this Act, unless where otherwise herein specially provided, shall commence and take effect from and after the *last* day of *September* next after the passing of this Act.

35. Act may be repealed, &c. this Session.

And be it Enacted, That this Act may be repealed, altered or amended by any Act or Acts to be passed during the present Session of Parliament.

SCHEDULE

Of FEES or DUES of COURT (referred to in this Act) to be paid in lieu of the Fees presently payable to the Inner and Outer House Assistant Clerks, Clerks of the Teind Court, Clerks of the Bills, and Auditor.

INNER HOUSE.

	s.	d.
Original Petitions, and Petitions and Complaints, or any other writ or step by which a cause is originated; also, Answers thereto, or other first step for a Respondent or other party, Printed	15	–
Written	12	6
Condescendences, Answers and Revised or Amended Condescendences and Answers with or without Pleas in Law annexed, Printed	10	–
Written	7	6
Cases and Revised or Supplementary Cases, Printed	10	–
Written	7	6
Reclaiming Notes, with or without Appendices; also Petitions and Answers, not being first steps, Printed	10	–
Written	7	6
Notes to the Lord President and Answers thereto, Minutes and Answers thereto, Printed	5	–
Written	2	6
Notes of Additional or Supplementary Pleas in Law	7	6
Each other step or Pleading in the Inner House, not enumerated in this Schedule, Printed	10	–
Written	7	6
(Procedure for Admission to the Poor's Roll not to be charged.)		

OUTER HOUSE.

	s.	d.
Summonses of every kind (except in Cessios) and Defences thereto; also Letters or Notes of Suspension or Advocation, and any other writ, pleading or step whereby a cause is originated, or by which a party first makes appearance in any cause	10	–
Reasons or Revised or Amended Reasons of Suspension or Advocation, and Answers and revised or amended Answers thereto, with or without Notes of Pleas in Law annexed, each	5	–
Condescendence and Answers, revised or amended Condescendence, and revised or amended Answers, with or without Notes of Pleas in Law annexed, each	5	–
Notes of Additional or Supplementary Pleas in Law	5	–
Inventories to satisfy Production, and Inventories of Titles in Teind Causes, each	5	–
Cases, and Revised or Supplementary Cases	7	6
Minutes and Answers thereto, Notes and Answers thereto, each	2	6
Objections, Revised Objections, Answers and Revised Answers thereto, each	2	6
Condescendence and Claims or Interests in Multiplepoindings, Rankings, &c., and Revised ditto, where the sum claimed is upwards of *10 l.*, each	2	6
(No charge where for *10 l.* or under.)		
Each other step or pleading in the Outer House, not enumerated in this Schedule	7	6

BILL CHAMBER.	s.	d.
Bills or Notes of Suspension or Advocation, Suspension and Interdict, and Answers thereto, or other original application or first step, except Plack Bills, each	5	–
Bills for loosing Arrestments and Answers thereto, Notes and Answers thereto, each	2	6
Accounts of Expenses, each (see "Miscellaneous Papers")	2	6
Bonds of Caution on being taken out	2	6
Certificates or Extracts of Judgments	2	6
EXTRACTS.		
Decrees of Locality (instead of 4*l.* 13*s.* 4*d.* presently paid to the Teind Clerks, besides other Fees)	40	–
Decrees of Valuation (instead of 7*l.* 4*s.* 6*d*, presently paid to the Teind Clerks, besides other Fees)	60	–
All other Decrees if in Foro	15	–
Decrees in Absence, Acts, Abbreviates of Adjudication, Diligences and Protestations, each	10	6
MISCELLANEOUS PAPERS.		
Certified Copy Proceedings for Appeal to the House of Lords	40	–
Certified Copy of Pleadings or Interlocutors by a Principal Clerk or his Assistant	2	6
Oaths of Parties, Witnesses or Havers, if in Presence, each	2	6
if on Commission	1	–
Bonds of Judicial Caution, on being taken out	10	–
Prepared States and Schemes, Printed	15	–
Written	10	–
Memorials and Abstracts	10	–
Minutes of Election of a Common Agent	2	6
For printed Additional Appendices or other Papers, boxed for the Judges of the Inner House, not being pleadings in the Cause, each	2	6
Notes for Searches, if under 10 years from the date of the order, each Search	2	6
10 years and under 25	7	6
25 years and upwards	12	6
for extracted Processes in the Teind Record	5	–
Accounts of Expenses	5	–
And in lieu of the Auditor's Fees at present payable, the following rates:—		
Accounts under 10*l.*	2	6
10*l.* and under 20*l.*	5	–
20*l.* and under 50*l.*	7	6
50*l.* and under 100*l.*	10	–
100*l.* and under 150*l.*	15	–
150*l.* and under 200*l.*	20	–
200*l.* and under 300*l.*	30	–
300*l.* and under 500*l.*	40	–
500*l.* and under 600*l.*	60	–
And for Accounts exceeding 600*l.* the Fee to be increased at the rate of 5*s.* for every 100*l.* or part of 100*l.*		

The Fees in the preceding Schedule to apply to all Causes in the Court of Session, Jury Court, and Court of Commissioners for Teinds; also to Maritime and Consistorial Causes; but shall not apply to Causes on the Poor's Roll; to proceedings under the Acts relative to Friendly Societies, in so far as at present exempted from Fees; nor to Petitions under the Act 5 Geo. 4, c. 72, relative to small Stipends, nor to any proceedings which are at present exempt from fees by any Act of Parliament now in force.

Court of Session (Scotland.)

A

BILL

To make certain Alterations in the Duties of the Lords Ordinary, and in the Establishment of Clerks and Officers of the Court of Session and Court of Commission for Teinds in Scotland, and to reduce the Fees payable in those Courts.

(Prepared and brought in by
The Lord Advocate and Mr. Attorney General.)

Ordered, by The House of Commons, *to be Printed,*
3 *February* 1837.

10.

24 April 1837.—7 Will. IV.

A

BILL

[AS AMENDED BY THE COMMITTEE]

To make certain Alterations in the Duties of the Lords Ordinary, and in the Establishment of Clerks and Officers of the Court of Session and Court of Commission for Teinds in *Scotland*, and to reduce the Fees payable in those Courts.

Preamble.

WHEREAS the number of Officers attached to the Court of Session in *Scotland*, and the Fees or Emoluments paid to them, were at first established by usage or by Acts of Sederunt of that Court:

50 G. 3. c. 112.

And whereas by an Act passed in the fiftieth year of the reign of his Majesty King George the Third, intituled, "An Act for abridging the form of extracting Decrees of the Court of Session in *Scotland*, and for the Regulation of certain parts of the Proceedings of that Court," a Fee Fund was established, and the Dues of Court, or the Fees and Emoluments of the Clerks and other Officers, were partially regulated:

55 G. 3. c. 42.

And whereas by an Act passed in the fifty-fifth year of the reign of his Majesty King George the Third, intituled, "An Act to facilitate the Administration of Justice in that part of the United Kingdom called *Scotland*, by the extending Trial by Jury to Civil Causes," a considerable addition was made to the Judicial Establishment in *Scotland*, and payments were appointed to be made in the form of Salaries out of the Duties and Revenues of *Scotland*, which by Acts passed in the seventh and tenth years of the reign of her Majesty Queen Anne were made chargeable with the Fees, Salaries and other Charges allowed or to be allowed by her Majesty, her heirs and successors, for keeping up the Courts of Session, Justiciary and Exchequer in *Scotland*:

55 G. 3. c. 70. And whereas by another Act passed in the fifty-fifth year of the reign of his said Majesty King GEORGE the Third, intituled, "An Act for better regulating the Formation and Arrangement of the Judicial and other Records of the Court of Session in *Scotland*," an alteration and reduction were made in the number of Officers and Keepers of the Records, and an alteration was made in the mode of appointment of these Officers:

59 G. 3. c. 35. And whereas by an Act passed in the fifty-ninth year of the reign of his said Majesty King GEORGE the Third, intituled, "An Act to amend an Act passed in the fifty-fifth year of the reign of His present Majesty, intituled, 'An Act to facilitate the Administration of Justice in that part of the United Kingdom called *Scotland*, by extending Trial by Jury to Civil Causes,'" an addition was made to the Officers of the said Jury Court, and certain Fees were authorized to be paid:

1 & 2 G. 4. c. 38. And whereas by an Act passed in the first and second years of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act for establishing Regulations respecting certain parts of the proceedings in the Court of Session, and in the Court of Commissioners for Teinds, and respecting the Duties, Qualifications and Emoluments of certain Clerks and other Officers of the said Courts," various alterations were made, and the appointment of new Officers authorized, and payments by Salaries to them and other Officers directed to be made:

6 G. 4. c. 120. And whereas by an Act passed in the sixth year of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act for the better regulating of the Forms of Process in the Courts of Law in *Scotland*," extensive alterations were made in the forms of procedure, and compensation out of the said Revenues of *Scotland* was authorized to be made to Clerks or Officers affected thereby, and a new form of citation and charge and intimation against defenders furth of the kingdom being introduced, and a Record thereof established, the Court of Session was authorized to fix an allowance for the trouble and expense thereby imposed on the Keeper of the Record, to be paid to him from the said Fee-Fund:

1 W. 4. c. 69. And whereas by an Act passed in the first year of the reign of His present Majesty King WILLIAM the Fourth, intituled, "An Act for uniting the Benefits of Jury Trial in Civil Causes with the ordinary Jurisdiction of the Court of Session, and for making certain other Alterations and Reductions in the Judicial Establishments of *Scotland*,"

provision was made for reducing the number of Clerks of Court, both Principal and Depute Clerks of Session; and the appointment of Depute Clerks and Assistant Clerks of Session was vested in His Majesty, and compensation was appointed to be made to Clerks and others suffering loss by the regulations introduced by the said last recited Act:

3 & 4 W. 4. c. 13.

And whereas by an Act passed in the third and fourth years of the reign of His present Majesty King WILLIAM the Fourth, intituled, "An Act to provide for the Execution of the Duties performed by the Barons of Exchequer in *Scotland*, in relation to the Public Revenue, and to place the Management of the Assessed Taxes and Land Tax in *Scotland* under the Commissioners for the Affairs of Taxes," various powers and duties formerly exercised by the Court of Exchequer in *Scotland* were transferred to the Commissioners of His Majesty's Treasury for the time being, or any Three of them, and the powers of fixing and paying the Compensations and Payments authorized to be fixed or made from the aforesaid Duties and Revenues of *Scotland* is transferred to the said Commissioners:

And whereas His present Majesty, by Commission, bearing date the Sixth day of June, One thousand eight hundred and Thirty-three, directed Letters Patent to be forthwith made and passed under the Seal appointed by the Treaty of Union to be kept and made use of in place of the Great Seal of *Scotland*, directingcerta in persons therein named to make a diligent and faithful inquiry into various matters relative to the Law and Administration of Justice in *Scotland*, and in particular "as to the Fees now exigible from Suitors in the Court of Session in *Scotland*, and the practicability of diminishing the same by reducing the establishment of Clerks and other Officers, now receiving such Fees or otherwise:"

And whereas His present Majesty, by Commission, bearing date the Sixteenth day of August, One thousand eight hundred and Thirty-four, directed Letters Patent to be forthwith made and passed under the Seal appointed by the Treaty of Union to be kept and made use of in place of the Great Seal of *Scotland*, directing certain persons therein named (in addition to the inquiries which they were directed to make by the said first-recited Commission) to make a diligent and full inquiry into various further matters relative to the Law and Administration of Justice in *Scotland*, and in particular "as to the Arrangement of Judicial Business in the Courts of Session and other Courts;" and also "as to the Numbers, Duties and Emoluments of the Clerks and other Officers employed in the Court of Session, and in the General Register House in connexion with the said Court, as also with any Office that may be required for Sequestrations, or for the Administration of the

Bankrupt Law, or otherwise;" and also "as to any and what Legislative measures ought to be brought forward in reference to the matters contained in this and the former Commission, with the view of diminishing Expense, removing Delay and improving the Administration of Justice in *Scotland*:"

And whereas the Commissioners so appointed have made Two Reports to His Majesty, which have been laid before Parliament:

And whereas, in order to improve the Arrangement of Judicial Business before the Lords Ordinary of the Court of Session, and to improve the Arrangements and Duties of the Clerks and other Officers of the said Court, and of the Court of Commission for Teinds in *Scotland*, and to diminish the Expense of the Administration of Justice, it is expedient that certain new Regulations should be adopted, together with a further Reduction of the Number of the Clerks and Officers of the said Courts, and that the Clerks or other Officers should derive their remuneration or emolument from Salaries of a fixed amount; and it is therefore necessary in some respects to alter or amend the said recited Acts and the existing practice;

1.
Junior Lord Ordinary to act as one of the permanent Lords Ordinary.

BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, THAT the junior Lord Ordinary of the Court Session for the time shall act as one of the permanent Lords Ordinary in the Outer House, and shall be on the same footing in regard to the duties of preparing and deciding causes in the Outer-House with the other four permanent Lords Ordinary; and that on and after the Eleventh day of November next after the passing of this Act it shall accordingly be competent to enrol causes brought into Court for the first time before the junior Lord Ordinary, in the same manner as before any other of the four permanent Lords Ordinary, and the junior Lord Ordinary shall thereafter proceed in and determine the same in common form: Provided always, That (with the exception as to Actions of Reduction hereinafter mentioned) the other duties of the junior Lord Ordinary shall continue as at present; and provided also, that it shall be competent to the Court on the application of the junior Lord Ordinary, and in case of his being over-burthened with business, from time to time to relieve him of the duty of taking up a weekly roll of new causes for such time as may be thought proper.

2.
Actions of Reduction to be enrolled before any Lord Ordinary.

And be it Enacted, That on and after the said Eleventh day of November next, the present practice of enrolling all Recissory Actions or Actions of Reduction exclusively before the junior Lord Ordinary shall be discontinued, and it shall be competent to enrol such of the said description of actions as shall be brought into Court for the first time before any of the five Lords Ordinary in the Outer House, who shall severally proceed to prepare and dispose thereof in common form.

3. Causes to be enrolled weekly before any Lord Ordinary.

And be it Enacted, That the present regulation, by which each of the four permanent Lords Ordinary is required in rotation to officiate as Ordinary for the week in the Outer House, shall be discontinued, and that on and after the said Eleventh day of November next it shall be competent to enrol in the weekly printed Roll, causes which shall then be brought into Court for the first time before any of the Lords Ordinary, without regard to such rotation, and it shall be competent to any Lord Ordinary to discharge the duties of Lord Ordinary on oaths and witnesses.

4. Lords Ordinary to be attached to either Division.

And be it Enacted, That the said Lords Ordinary in the Outer House shall not be exclusively attached to either Division of the Court, but shall be attached equally to both Divisions thereof; and that on and after the said Eleventh day of November next the Partibus written upon Summonses, Letters or Notes of Suspension, Advocation or other Writ, by which a cause shall be originated in the Outer House, shall set forth the particular Division of the Court to which the cause shall belong; and in the event of the cause being afterwards removed to the Inner House by Reclaiming Note, Cases or otherwise, it shall only be competent to carry the cause to the particular Division so set forth: Provided always, That the Division to which the cause is to belong shall be stated in the weekly printed Rolls: Provided also, That this Regulation shall not be held to apply to causes depending in the Outer House at the time when the provisions of this Act shall take effect, but that all such causes shall continue to belong to that Division of the Inner House to which the Lords Ordinary before whom such causes now depend are severally attached.

5. Principal Clerks of Session.

And be it Enacted, That instead of Four Principal Clerks of the said Court of Session, and Four Principal Clerks connected with proceedings in Trials by Jury, being two Issue Clerks and two Record Clerks, the number of Principal Clerks shall be reduced, as hereinafter provided, to Four in all, who, in addition to the duties heretofore discharged by the Principal Clerks of Session, shall perform all duties belonging to the Principal Clerks connected with Trials by Jury, as hereinafter provided, and shall also discharge the duties of the present Clerks of the Bills in all Bill Chamber Proceedings which may take place in the Inner House of the Court of Session.

6. Vacancies of Principal Jury Clerks not to be filled up, and distribution of duties of Issue Clerks.

And be it Enacted, That in order to carry such reduction of the number of Clerks into effect, the vacancies which may occur in the offices of the said Four Principal Clerks, being the two Issue Clerks and two Record Clerks, connected with Trial by Jury, shall not be filled up; and as vacancies occur in the offices of the said two Issue Clerks, the duties now falling to be performed by them shall be discharged as follows: On the first of the said vacancies occurring it shall be competent to the Presidents in each Division of the Court, and they are hereby required to nominate one of the Principal Clerks in each Division who shall be conjoined with the remaining Issue Clerk in the performance of those Duties; and on the remaining vacancy occurring, the two other Principal Clerks shall be conjoined with the two Principal Clerks previously nominated as aforesaid in the performance of the said Duties in their several Divisions of the Court respectively, in the same manner as they have been performed by the present Issue Clerks; and the said Principal Clerks are hereby enjoined and required to consult, advise and act with the remaining Issue Clerk and with one another in the performance of the said Duties, for the purpose of preserving uniformity of practice.

7.
Distribution of duties of Record Clerks.

AND whereas by the present arrangement the senior Record Clerk is attached to the First Division of the Court in business connected with Jury Trial, and the junior Record Clerk is in like manner attached to the Second Division of the said Court; BE it Enacted, That as vacancies occur in the offices of the Record Clerks the duties now falling to be discharged by them in the Inner House, and at the Register House connected with Inner House causes, and at Jury Trials which take place at the sittings in *Edinburgh*, shall be performed by the two Principal Clerks of Session connected with the Division in which such vacancies shall severally occur, each Principal Clerk taking charge in the Inner House as aforesaid of those causes which depended in or belong to his own office; and the duties now falling to be discharged before the Lords Ordinary by the said Record Clerks and their Assistant, relative to causes connected with Trials by Jury, shall, from and after the Eleventh day of November next, be performed by the Depute and Assistant Clerks, each Depute and Assistant Clerk taking charge in the Outer House as aforesaid of those causes which depended in or belong to his own office; and the said causes so appropriated to Trial by Jury, or ordered to be so tried, shall not be sent to the Jury Clerks' Offices until the Record is ready to be closed and Issues are to be prepared: Provided always, That the practice of remitting such causes to the Jury Roll shall remain as at present.

8.
Duties of Inner House Clerks, &c.

And be it Enacted, That in case of absence from necessary cause of any Principal Clerk of Session, his duty may be discharged by any person appointed by the Division of the Court to which such Principal Clerk may belong, either from among the Record or Issue Clerks, Assistant Clerks in the Inner House, or the Depute Clerks in the Outer House; and all Interlocutors which have been or shall hereafter

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after be written by any such persons so appointed and acting under authority of the Court, being duly signed, shall be, and they are hereby declared to be valid and effectual, any law or practice to the contrary notwithstanding; and no payment shall be made to any Principal or Depute Clerk of Session as Clerk to King's Processes, and the said office of Clerk to King's Processes is hereby abolished, and processes conducted on behalf of His Majesty shall thereafter be under the care of the Clerks of Session generally; and so much of the before-recited Act passed in the first and second years of the reign of his Majesty King GEORGE the Fourth as provides that in the event of a Principal Clerk of Session being appointed one of the Principal Clerks of the Bills, he shall receive an additional salary of Three hundred pounds per annum, shall be and the same is hereby repealed.

1 & 2 G. 4. c. 38.

9. Assistant Clerks in the Inner House.

And be it Enacted, That instead of Six Assistant Clerks of Session in the Inner House, these Assistant Clerks shall be reduced to Four in number, in manner herein provided; and no successors shall be appointed to the present Assistant Clerks connected with Jury Cases.

10. Duties.

And be it Enacted, That the Assistant Clerks in the Inner House shall, in addition to their other duties, take charge of all Bill-Chamber Cases brought into the Inner House, and shall in like manner take charge of all Jury Cases in the Inner House on the death, resignation or removal of the present Issue Clerks and Record Clerks; and in case both or either of the Assistants of the Issue and Record Clerks shall resign or be removed, or predecease that event, the duties of such Jury Clerks' Assistant so resigning, removed or predeceasing shall in the meantime be discharged by the Survivor or by the other Assistant Clerks, in such way and manner as the Court of Session may direct, in virtue of the powers conferred by this Act.

11. Salaries.

And be it Enacted, That the Assistant Clerks in the Inner House, instead of being paid by fees, shall receive a fixed salary of Three hundred and fifty Pounds each per annum.

12. Depute Clerks in the Outer House and Assistants.

And be it Enacted, That instead of Six Depute Clerks of Session in the Outer House, and Six Assistant Clerks, the number shall be reduced to Five Depute, and, under the exception after mentioned, to Five Assistant Clerks; and, in addition to the duties at present performed by them, the Depute and Assistant Clerks shall take charge of all processes connected with Trial by Jury in the Outer House on the death, resignation or removal of the present Record Clerks in that department; and the Depute Clerks, with the exception of the Depute Clerk attached to the Junior Lord Ordinary and the Lord Ordinary on the Bills, shall attend in rotation the trials at circuit on the resignation, removal or death of the present Jury Clerks; each of the said

Depute Clerks so attending receiving an allowance of Three Pounds Three Shillings per day during his necessary absence from *Edinburgh*, in full of all expenses of each Circuit: Provided always, That a Depute and Assistant Clerk shall be attached to and shall attend at the bar of each Lord Ordinary in the Outer House, and that One of the Depute Clerks shall be attached to the Junior Lord Ordinary and to the Lord Ordinary on the Bills, as hereinafter provided, and shall have Two separate Offices, the one office, under the charge of one Assistant, being devoted to the business of the Court of Session, and the other office, under the charge of Two Assistants, both of whom shall be appointed by His Majesty, His heirs and successors, being devoted to the business of the Bill Chamber; and the offices and duties of the whole of the present Clerks in the Bill Chamber connected with Bill Chamber Procedure shall be and the same are hereby abolished; provided that no successor shall be appointed to the present Keeper of the Register of Abbreviates of Adjudications, but upon the death, resignation or removal of *James Mercer*, now officiating in that office, the said office of Keeper of the Register of Abbreviates of Adjudications shall be abolished, and the duties thereof performed by the Keeper of the Register of Hornings and Inhibitions, in such manner and subject to such conditions and regulations as His Majesty's Secretary of State for the Home Department for the time being shall be pleased to direct: Provided also, That it shall be competent to the Lord President of either Division, on application by any Lord Ordinary, to direct that any of the Judges' Clerks of either Division of the Inner House, other than the Clerks of the said Lords President, or any person receiving compensation or retired allowance under this Act, shall discharge such duties as the absence of any Clerk officiating before or in attendance upon any Lord Ordinary, or the state of business depending before him shall render necessary.

13.
Salaries of Assistant Clerks in the Outer House.

And be it Enacted, That the remuneration of the Assistant Clerks employed in the business of the Outer House, instead of depending as at present upon fees, shall consist of a fixed Salary of Three hundred and fifty Pounds per annum each; and the said Assistant Clerks, both in the Inner and Outer House, are hereby prohibited from charging or receiving any Fees, except for Copies of Interlocutors or other papers ordered or required, for which an allowance shall be paid at the rate of Fourpence for each page of One hundred and fifty words, without any further charge for stationery: Provided always, That where upon remit from the Court or Lord Ordinary any of the said Depute or Assistant Clerks shall be directed to make investigations and prepare any report, calculation, or state, the charges therefor shall be regulated by the time and labour in each particular case, and shall be in all cases subjected to the review and taxation of the Auditor of Court, and the emoluments arising from such employment shall be paid into the Fee Fund.

And

14. Duties and Salaries of Clerk of Bill Chamber and Assistant.

And be it Enacted, That the Depute Clerk employed to transact the business of the Bill Chamber shall, under the Principal Clerks of Session, have the whole charge of that department, and shall be responsible for the reputed solvency of Cautioners, and for consigned money, in like manner as the Bill Chamber Clerks are at present; and the remuneration of the said Depute, in respect of the duties to be performed by him both before the Junior Lord Ordinary and the Lord Ordinary on the Bills, shall consist of a Salary of Five hundred Pounds per annum; and the remuneration of the Assistant Clerks of the Bill Chamber shall consist of fixed Salaries of Two hundred Pounds per annum to the first Clerk, and One hundred and fifty Pounds per annum to the second Clerk; and the said Depute and Assistants are hereby prohibited to charge or receive any Fees except for copying Bills of Suspension or other Pleadings or papers, copies of which may be ordered or required from them, for which an allowance shall be paid at the aforesaid rate of Four-pence for each page, including Stationery, but which Bills of Suspension or other Pleadings or papers they shall lend to the Agents for the parties when demanded, and all other Fees hitherto paid in the Bill Chamber are hereby abolished, including the Fees on consigned Money and Interest during the period of Consignation.

15. Distribution of Business, 1 W. 4. c. 69. s. 13.

AND whereas by the before recited Act of the first year of the reign of His present Majesty, it is enacted, That the two vacancies which should then next occur in the office of Principal Clerk of Session, as also in the office of Depute Clerk of Session, should not be supplied; and that in like manner the vacancies in the offices of the other Clerks belonging to the Court of Session should not be supplied until a certain event therein mentioned: AND whereas, in virtue of the said Act, certain vacancies which have since occurred have not been supplied, whereby the number of Principal Clerks of Session has been already reduced from Six to Four, and the number of Depute Clerks has been reduced from Six to Five, and the number of Assistants to the Depute Clerks has been reduced from Six to Four: AND whereas the Court of Session have by Act of Sederunt, dated the Eleventh day of March One thousand eight hundred and Thirty-seven, enacted certain Regulations for apportioning the duties among the remaining Clerks; and it is expedient for the purpose of carrying into effect the said last recited Act and this Act, in so far as required and not already carried into effect by the said Act of Sederunt, that farther Regulations should be made for distributing the business of the Court, and arranging the duties of the several Clerks; BE it Enacted, That *John Pringle*, Depute Clerk, and his Assistant, shall be attached to the business depending before Lord *Cockburn*; *Thomas Bruce*, Depute Clerk, and his Assistant, to the business depending before Lord *Fullerton*; *Robert Menzies*, Depute Clerk, and his Assistant, to the business depending

depending before Lord *Moncrieff*; *Adam Wilson*, Depute Clerk, and his Assistant, to the business depending before Lord *Jeffrey*; *Thomas Beveridge*, Depute Clerk, and his present Assistant, to the business depending before Lord *Cuninghame*; and the said *Thomas Beveridge*, with the addition of the Two Assistant Clerks hereinbefore provided, to the department of the Bill Chamber; and the said Clerks and their successors respectively shall be attached to and officiate before the said Lords Ordinary, and their successors respectively: That in terms of these regulations all causes depending before the several Lords Ordinary above named shall be transmitted to the respective offices of the Depute Clerks above named, according as they are to be severally attached to the said Judges and their successors: That those causes in the Inner House falling to be transmitted back to the Outer House shall be transmitted to the office of the Depute Clerk, who shall, in virtue of this Act, be attached to the Lords Ordinary to such causes respectively: That all causes which on or after the said Eleventh day of November next may come to depend in the offices of *John Pringle* and *Robert Menzies*, Depute Clerks, and which shall be removed by reclaiming note or otherwise to either Division of the Inner House, in terms of the provisions hereinbefore contained, shall be transmitted either to the office held by the late *Adam Rolland*, Principal Clerk in the first division, or to the office held by *Thomas Thomson*, Principal Clerk in the second division: That in like manner all causes removed to the Inner House from the offices of *Thomas Bruce* and *Adam Wilson*, Depute Clerks, shall be transmitted either to the office held by *George Joseph Bell*, Principal Clerk in the first division, or to the office held by *James Fergusson*, Principal Clerk in the second division: That all causes presently depending before the Junior Lord Ordinary, hereafter removed to the Inner House by reclaiming note or otherwise, shall be transmitted to the office of the Principal Clerk which corresponded with the office of the Depute Clerk in which such causes formerly depended: Provided always, That such of the said causes as depended in the offices held by *William Pringle*, Depute Clerk, deceased, and by *Adam Wilson*, Depute Clerk, as well as all causes which, on or after the said Eleventh day of November next, may come to depend before the Junior Lord Ordinary in the Outer House, and which may be removed to the Inner House by reclaiming note or otherwise, shall be transmitted to the senior Principal Clerk's Office of that Division of the Court to which such causes shall belong, in terms of this Act; and the practice as to reclaiming notes from the Bill Chamber being lodged with any of the Inner House Clerks of either division of the Court shall remain as at present; and the same rule shall be followed with respect to the transmission of causes taken to report from the Bill Chamber.

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16. Judges' Clerks.

And be it Enacted, That the Salaries of each of the Judges' Clerks and Keepers of the Inner and Outer House Rolls, to be appointed after the death, resignation or removal of the present Incumbents, shall be Four hundred Pounds to each of the Keepers of the Inner House Rolls, instead of Five hundred Pounds as at present; and to the ordinary Judges' Clerks Two hundred Pounds per annum each, instead of Three hundred Pounds as at present, with an addition of Ten Pounds per annum to the said salaries of the ordinary Judges' Clerks respectively for each year of their service until such salaries shall amount to Three hundred Pounds per annum to each ordinary Judges' Clerk who shall have served as such for Ten Years; and so much of the said recited Act of the first and second years of his late Majesty King GEORGE the Fourth as provides that certain Allowances shall be paid by the Collector of the Fee Fund to such person or persons as should be appointed by the Court of Session, for forming a Fund for the purpose of providing eventual Life-rent Annuities to the Judges' Clerks and Keepers of the Inner House Rolls, shall be and the same is hereby repealed.

1 & 2 G. 4. c. 38. s. 15.

17. Annuity Fund to Judges' Clerks. 1 & 2 G. 4. c. 38.

AND whereas a fund has been accumulated under the provisions of the said recited Act of the first and second years of the reign of his Majesty King GEORGE the Fourth, and the Acts of Sederunt of the Court of Session relative thereto, for the purpose of providing eventual Life-rent Annuities to the said Judges' Clerks and Keepers of the Inner House Rolls, and the present Judges' Clerks and Keepers of the Inner House Rolls, and certain existing Annuitants are interested in the said fund and in the contributions directed to be made thereto under the provisions of the said Act which are hereby repealed as aforesaid: AND whereas it is expedient to provide for the continuance of equivalent Life-rent Annuities to the said existing Annuitants, and also to the Judges' Clerks and Keepers of the Inner House Rolls and their successors in office, out of the Public Revenue; BE it Enacted, That the holders of the said accumulated fund shall be and they are hereby authorized and required to pay over and assign the said accumulated fund to the Lord High Treasurer or Commissioners of His Majesty's Treasury for the time being, or to such person or persons as they shall appoint, who is or are hereby empowered to require an account thereof, and call for and receive the same and discharge the holders thereof, and which shall be applied and disposed of as the said Lord High Treasurer or Commissioners may think fit to direct; and Life-rent Annuities shall be payable and paid to the said existing Annuitants and Judges' Clerks and Keepers of the Inner House Rolls and their successors in office, equivalent to those which they would have had right to receive under the provisions of the said last-recited Act and Acts of Sederunt relative thereto, and in the manner and under the conditions therein contained, out of the monies which by the Acts of the seventh and tenth years of the reign of her Majesty

Queen Anne were made chargeable with the fees, salaries and other charges allowed or to be allowed for keeping up the Courts of Session, Justiciary and Exchequer in *Scotland*.

18. Extractors.

And be it Enacted, That instead of the duty of extracting the Acts and Decrees of the Court of Session being performed by four Extractors and eight Engrossing Clerks, nominated by the Principal Clerks of Session during pleasure, the duty of preparing and superintending the preparation of Extracts shall be intrusted to the Junior Principal Clerk of Session for the time being, who shall attend in and perform the duties of the office in person, with the aid of One Assistant, nominated by him and holding an appointment at pleasure under him, and for whom he is to be responsible, and who, in the event of absence, from necessary cause, of such Principal Clerk, shall be empowered to subscribe and authenticate the Extracts, and in preparing Extracts, printed forms, in manner or to the effect required by the said Act of the fifteenth year of his late Majesty King George the Third, may be used, the blanks in such forms being filled up in manuscript; and such Principal Clerk shall from time to time employ such Engrossing Clerks as he shall think necessary for the performance of the business of the office: Provided always, That in any new appointments to be made under this Act a preference shall be given to persons removed from any office under this Act who may be duly qualified to discharge the duties thereof.

19. Salary of Assistant.

And be it Enacted, That the said Assistant shall be paid wholly by a Salary of Three hundred Pounds per annum; and the Engrossing Clerks shall be paid at the aforesaid rate of Four-pence for each page of One hundred and fifty words, without any farther charge for printing or stationery; and it shall be held illegal and an act of malversation in office for the Principal or Assistant Extractor to participate in the charges for copying payable to such Engrossing Clerks.

20. Keeper of the Records.

And be it Enacted, That when a Vacancy shall occur in the office of Keeper of the Records, established by the said Act passed in the fifty-fifth year of the reign of his Majesty King George the Third, it shall not be competent to appoint a successor to the present Keeper; and the duties of the office shall be performed by the Junior Principal Clerk of Session and his Assistant Extractor, with the aid of a Clerk, in case it shall appear to the said Junior Principal Clerk of Session to be proper and necessary to appoint such Clerk, who shall receive such Salary, not exceeding One hundred Pounds per annum, as shall be fixed by the said Principal Clerk; and no fees shall hereafter be received by any person performing the duties of the said office.

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21. Keeper of the Minute Book and Record of Edictal Citations.

And be it Enacted, That when a vacancy shall occur in the office of Keeper of the Minute Book and of the Keeper of the Record of Edictal Citations, One Officer shall be appointed by His Majesty, His heirs and successors, who shall perform the duties of both offices; and these duties shall be performed by the holder of the said offices in person, with the aid of a Clerk to be appointed by him; and such Officer shall receive a fixed salary of Three hundred Pounds per annum, and his said Clerk shall receive a salary of One hundred and thirty Pounds per annum, in lieu of all fees or perquisites: Provided always, That upon the occurrence of the first vacancy in the said two offices, the duties of such office so first becoming vacant shall be performed by the Officer holding the other of the said two offices, and for performing the duties of the said two offices he shall receive Three hundred Pounds per annum, in case the salary and emoluments then receivable by him in respect of his said previous office shall not amount to that sum annually, and he shall be entitled to appoint a Clerk with a salary as aforesaid; and when a vacancy shall occur in the said office of Keeper of the Minute Book, the person or persons who shall hereafter perform the duties of the said office shall not charge or receive any fees or perquisites or any profits from the sale of the Minute Book.

22. Minute Book how to be printed.

And be it Enacted, That the Minute-Book of the Court of Session shall be printed by the Keeper thereof, and shall be sold by him to the public at the lowest rate which will defray the necessary expense of printing the same, and he shall annually exhibit an account thereof to the Auditor of Court, who is authorized to examine and audit the same.

23. Collector and Accountant of the Fee Fund.

And be it Enacted, That the salary and emoluments of the Collector of the Fee Fund shall not exceed Four hundred Pounds per annum, paid in the same manner as the present salary and emoluments are; and upon any vacancy hereafter occurring in the said office, his Successor shall be appointed by His Majesty and His heirs and successors; and the salary of the present Accountant of the Fee Fund, while he shall hold the said office, shall be One hundred Pounds: Provided always, That the offices of the said Collector and Accountant of the Fee Fund may be abolished by any Act to be passed during the present Session of Parliament, or to be hereafter passed, and their duties transferred to other persons.

24. Auditor to be paid by Salary.

And be it Enacted, That the Auditor of Accounts in the said Court instead of being paid by fees shall receive a fixed Salary of Seven hundred Pounds per annum, with the accommodation of office room, or such a reasonable allowance for the same as the said Court shall direct.

25.
Macers.

And be it Enacted, That as vacancies occur, the Salaries allowed to each of the Macers of Court shall be limited to One hundred Pounds per annum.

26.
Teind Clerks.

And be it Enacted, That the office and duties of the present Principal Clerk of the Commissioners for Teinds shall be and the same is hereby abolished, and the business heretofore discharged by the Teind Clerks shall be in future discharged by the present first and second Depute Clerks of Teinds and their successors in office, the said present first Clerk being hereafter to be named the Clerk of Teinds; and upon his death, resignation or removal, his successor shall be appointed by His Majesty and His heirs and successors; and the said present second Clerk being hereafter to be named the Depute Clerk of Teinds, and upon his death, resignation or removal, his successor shall be appointed by the Clerk of Teinds for the time, and the salary of the Clerk of Teinds shall be Three hundred Pounds per annum, and the Salary of the Depute Clerk shall be Two hundred and fifty Pounds per annum, besides the emoluments respectively allowed to such Clerk and Depute Clerk by this Act.

27.
Duties of the Teind Clerks; Extracts, Accounts, &c.

And be it Enacted, That the provisions and regulations for abridging the form of extracting Decrees of the Court of Session under the said recited Act of the fiftieth year of the reign of his late Majesty King George the Third shall be and the same are hereby extended and applied to extracts of Acts and Decreets pronounced by the Court of the Commissioners for Teinds, except in processes of valuations of Teinds, and other cases where a full extract may be required; and the provisions and regulations which are or may be applicable to auditing of accounts of expenses in the Court of Session by the Auditor of Court shall be and the same are hereby extended and applied to accounts of expenses in the Court of Commissioners for Teinds, which shall be subject to be audited and taxed by the said Auditor in like manner as accounts of expenses in the Court of Session; and the business of the Teind Office shall in other respects continue as at present: Provided always, That in those cases in which the Clerk of Teinds may be appointed by remit from the Court or Lord Ordinary, or may be employed by any party in a cause in the Teind Court as an accountant, or for the preparation of states, schemes or calculations for regulating or adjusting the rights of parties, the charges to be made by the said Clerk of Teinds shall be regulated according to the time and labour in each particular case, but subject to the review and taxation of the Auditor of the Court of Session in like manner as accounts of expenses; and the emoluments arising from such employment of and charges by the said Clerk of Teinds shall belong to such Clerk of Teinds: And provided also, That the said Depute Clerk of Teinds shall continue to discharge the duty of extracting

Decreets pronounced by the Court of Commissioners for Teinds, and shall draw the emoluments thereof as the same are regulated by this Act.

28. The Fee Fund.

And be it Enacted, That the Fees contained in the Schedule annexed to this Act, along with the Fees presently payable upon extracts of deeds recorded in the books of Council and Session, shall hereafter form and be paid into the Fee Fund of the Court of Session; and all other fees, dues and perquisites payable to the said Fee Fund, or to the Clerks or Officers of Court, or of the Commissioners for Teinds, are and shall be abolished, under the exceptions hereinbefore made; and the salaries and allowances made and provided by this Act shall be payable quarterly, free of all deductions, out of the said Fee Fund, under the provisions, in case of insufficiency of the said Fund, contained in the said Act of the fiftieth year of the reign of his Majesty King George the Third.

29. Officers of Court may be summarily removed for malversation.

And be it Enacted, That if any Clerk, Extractor or other Officer of Court shall neglect his duty, or shall be guilty of any malversation in office, or shall exact or receive any fees or perquisites other than those due to him in virtue of his office, or contrary to law, it shall be competent for the Court of Session, on such charge or charges being proved in any summary application, by petition and complaint at the instance of the party or parties aggrieved, or of His Majesty's Advocate for the time being, to pronounce such Judgment as in the circumstances of the case may seem just, not exceeding deprivation of office and expenses of the proceedings, besides the repayment of any such fees or perquisites unduly received, which shall be paid either to the party complaining or to the Fee Fund, as the Court shall direct.

30. Compensation.

And be it Enacted, That it shall be lawful for any Clerk or Officer of the Court of Session or other person entitled to compensation for loss to be suffered through the operation or effect of this Act, to make application to the Lord High Treasurer, or to the Commissioners of His Majesty's Treasury, of the United Kingdom of *Great Britain* and *Ireland*, for the time being, claiming such compensation, giving at the same time notice of such application to His Majesty's Advocate; and it shall be lawful for the said Lord High Treasurer or Commissioners of the Treasury to investigate such claim and call for such evidence in relation thereto as he or they may think necessary; and upon such claim being established to his or their satisfaction, the said Lord High Treasurer or Commissioners of His Majesty's Treasury, or any Three of them, is and are hereby authorized and empowered to award to such person such compensation as he or they shall think him entitled to, either by the payment of a gross sum, or by way of annuity, as he or they shall think proper: Provided always, That a copy of every such award for compensation shall be laid before both Houses of Parliament within Two calendar Months after the commencement of the Session next ensuing after making the same; and no such award shall be final and conclusive until Two calendar Months after the same shall have been so laid before Parliament: Provided also, That if any person to whom compensation shall be so awarded by way of annuity shall be afterwards appointed to any other Public Office, such compensation shall be accounted *pro tanto* of the Salary payable to such person in respect of such other office while he shall continue to hold the same.

31. Compensation how to be paid.

And be it Enacted, That the several compensations which may be awarded under the authority of this Act shall be payable and paid out of the monies which by the Acts of the seventh and tenth years of the reign of her Majesty Queen ANNE were made chargeable with the fees, salaries and other charges allowed or to be allowed for keeping up the Courts of Session, Justiciary or Exchequer in *Scotland.*

32. Clerks appointed after January 1836, to have no Claim for Compensation.

And be it Enacted, That no Clerk or Officer who may be appointed to any of the offices hereinbefore mentioned after the First day of January One thousand eight hundred and Thirty-six shall have any claim to compensation for loss of fees or loss of office from the operation or effect of this Act, or of any Act passed during the present Session of Parliament.

33. Court of Session to make Acts of Sederunt.

And be it Enacted, That the Court of Session shall be and is hereby empowered from time to time to make such further regulations by Act of Sederunt as the said Court may deem meet for the purpose of carrying into effect the purposes of this Act, and of duly apportioning the business and regulating the duties to be performed by the several Clerks and Officers of Court; and also for the purpose of regulating any additional duties which the Court may think fit to require to be performed by any of the Judges' Clerks, and which regulations such Clerks and Officers shall be respectively bound to observe without any claim to further remuneration; and the said Court may meet for the above purposes during vacation as well as during Session, and may alter and amend such regulations from time to time: Provided always, That printed drafts of all Acts of Sederunt proposed to be passed under the powers herein given, shall in time of Session be published on the walls of the Court and in the minute-book, and in time of vacation, on the walls of the Bill Chamber, for not less than Fourteen Days before the same shall be passed: Provided also, That within Fourteen Days from the commencement of every future Session of Parliament there shall be transmitted to both Houses of Parliament copies of all Acts of Sederunt passed under the powers herein given.

34. Acts repealed; this Act to take effect from last day of September next.

And be it Enacted, That all laws, statutes, Acts of Sederunt and Usages shall be and the same are hereby repealed, in so far as they may be in any respect inconsistent or at variance with the provisions of this Act; and the whole provisions of this Act, unless where otherwise herein specially provided, shall commence and take effect from and after the last day of September next after the passing of this Act.

35. Act may be repealed, &c. this Session.

And be it Enacted, That this Act may be repealed, altered or amended by any Act or Acts to be passed during the present Session of Parliament.

SCHEDULE

Of FEES or DUES of COURT (referred to in this Act) to be paid in lieu of the Fees presently payable to the Inner and Outer House Assistant Clerks, Clerks of the Teind Court, Clerks of the Bills, and Auditor.

INNER HOUSE.

	s.	*d.*
Original Petitions, and Petitions and Complaints, or any other writ or step by which a cause is originated; also, Answers thereto, or other first step for a Respondent or other party, Printed - - - - - - - - -	15	–
Written - - - - - - - - -	12	6
Condescendences, Answers and Revised or Amended Condescendences and Answers with or without Pleas in Law annexed, Printed - - - -	10	–
Written - - - -	7	6
Cases and Revised or Supplementary Cases, Printed - - - - -	10	–
Written - - - - -	7	6
Reclaiming Notes, with or without Appendices; also Petitions and Answers, not being first steps, Printed - - - - - - - - -	10	–
Written - - - - - - - - -	7	6
Notes to the Lord President and Answers thereto, Minutes and Answers thereto, Printed - - - - - - - - - - -	5	–
Written - - - - - - - - - - -	2	6
Notes of Additional or Supplementary Pleas in Law - - - - -	7	6
Each other step or Pleading in the Inner House, not enumerated in this Schedule, Printed - - - - - - - - - - -	10	–
Written - - - - - - - - - - -	7	6

(Procedure for Admission to the Poor's Roll not to be charged.)

OUTER HOUSE.

	s.	*d.*
Summonses of every kind (except in Cessios) and Defences thereto; also Letters or Notes of Suspension or Advocation, and any other writ, pleading or step whereby a cause is originated, or by which a party first makes appearance in any cause - - - - - - - - - -	10	–
Reasons or Revised or Amended Reasons of Suspension or Advocation, and Answers and revised or amended Answers thereto, with or without Notes of Pleas in Law annexed, each - - - - - - - - -	5	–
Condescendence and Answers, revised or amended Condescendence, and revised or amended Answers, with or without Notes of Pleas in Law annexed, each - - - - - - - - - - -	5	–
Notes of Additional or Supplementary Pleas in Law - - - - -	5	–
Inventories to satisfy Production, and Inventories of Titles in Teind Causes, each - - - - - - - - - - - - -	5	–
Cases, and Revised or Supplementary Cases - - - - - - -	7	6
Minutes and Answers thereto, Notes and Answers thereto, each - - -	2	6
Objections, Revised Objections, Answers and Revised Answers thereto, each -	2	6
Condescendence and Claims or Interests in Multiplepoindings, Rankings, &c., and Revised ditto, where the sum claimed is upwards of 10*l.*, each - -	2	6
(No charge where for 10*l.* or under.)		
Each other step or pleading in the Outer House, not enumerated in this Schedule - - - - - - - - - - - -	7	6

BILL CHAMBER.

	s.	d.
Bills or Notes of Suspension or Advocation, Suspension and Interdict, and Answers thereto, or other original application or first step, except Plack Bills, each	5	–
Bills for loosing Arrestments and Answers thereto, Notes and Answers thereto, each	2	6
Accounts of Expenses, each (see " Miscellaneous Papers")	2	6
Bonds of Caution on being taken out	2	6
Certificates or Extracts of Judgments	2	6

EXTRACTS.

	s.	d.
Decrees of Locality (instead of 4*l.* 13*s.* 4*d.* presently paid to the Teind Clerks, besides other Fees)	40	–
Decrees of Valuation (instead of 7*l.* 4*s.* 6*d*, presently paid to the Teind Clerks, besides other Fees)	60	–
All other Decrees if in Foro	15	–
Decrees in Absence, Acts, Abbreviates of Adjudication, Diligences and Protestations, each	10	6

MISCELLANEOUS PAPERS.

	s.	d.
Certified Copy Proceedings for Appeal to the House of Lords	40	–
Certified Copy of Pleadings or Interlocutors by a Principal Clerk or his Assistant	2	6
Oaths of Parties, Witnesses or Havers, if in Presence, each	2	6
if on Commission	1	–
Bonds of Judicial Caution, on being taken out	10	–
Prepared States and Schemes, Printed	15	–
Written	10	–
Memorials and Abstracts	10	–
Minutes of Election of a Common Agent	2	6
For printed Additional Appendices or other Papers, boxed for the Judges of the Inner House, not being pleadings in the Cause, each	2	6
Notes for Searches, if under 10 years from the date of the order, each Search	2	6
10 years and under 25	7	6
25 years and upwards	12	6
for extracted Processes in the Teind Record	5	–
Accounts of Expenses	5	–
And in lieu of the Auditor's Fees at present payable, the following rates :—		
Accounts under 10*l.*	2	6
10*l.* and under 20*l.*	5	–
20*l.* and under 50*l.*	7	6
50*l.* and under 100*l.*	10	–
100*l.* and under 150*l.*	15	–
150*l.* and under 200*l.*	20	–
200*l.* and under 300*l.*	30	–
300*l.* and under 500*l.*	40	–
500*l.* and under 600*l.*	60	–
And for Accounts exceeding 600*l.* the Fee to be increased at the rate of 5*s.* for every 100*l.* or part of 100*l.*		

The Fees in the preceding Schedule to apply to all Causes in the Court of Session and Court of Commissioners for Teinds; but shall not apply to Causes on the Poor's Roll; to proceedings under the Acts relative to Friendly Societies; nor to proceedings in the Jury Court, or to Maritime or Consistorial Causes, in so far as at present exempted from Fees; nor to Petitions under the Act 5 Geo. 4, c. 72, relative to small Stipends, nor to any proceedings which are at present exempt from fees by any Act of Parliament now in force.

Court of Session (Scotland.)

A

B I L L

[AS AMENDED BY THE COMMITTEE]

To make certain Alterations in the Duties of the Lords Ordinary, and in the Establishment of Clerks and Officers of the Court of Session and Court of Commission for Teinds in *Scotland*, and to reduce the Fees payable in those Courts.

(Prepared and brought in by
The Lord Advocate and Mr. Attorney General.)

Ordered, by The House of Commons, *to be Printed,*
24 *April* 1837.

234.

197

A

B I L L

To extend the Powers of an Act of the Third and Fourth Years of His present Majesty, intituled, "An Act for the further Amendment of the Law and the better Advancement of Justice."

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble.

WHEREAS an Act was passed in the third and fourth years of the reign of his present Majesty, intituled, "An Act for the further Amendment of the Law, and the better Advancement of Justice:" And whereas by the said Act it is enacted, That in any Action depending in any of the superior Courts of Common Law at Westminster, for any Debt or Demand in which the sums sought to be recovered and endorsed on the Writ of Summons shall not exceed Twenty Pounds, it shall be lawful for the Court in which such suit shall be depending, or any Judge of any of the said Courts, to order and direct that the issue or issues joined shall be tried before the Sheriff of the County in which the Action is brought: And whereas the Trials before the Sheriff have given great satisfaction to Suitors, and it is expedient that the provisions of the said Act should be extended to Debts not exceeding Fifty Pounds: And whereas doubts have arisen, and do still exist, as to the right of Attornies to charge for letters written for payment of debts before suit, and for attendances in reference thereto; and it is expedient that Attornies should be encouraged to make application for payment before Action brought, and that they should not be discouraged from giving indulgence to Debtors: And whereas the scale of costs allowed by the Master of the respective Courts on taxation of costs for the trial of issues before the Sheriff is not sufficient for the purpose of increasing the respectability of the Sheriffs' Courts, and requires to be put on a different footing: And whereas for the purposes of justice it is expedient that the Sheriffs' Courts

1.
Extends provisions of 3 & 4 Will. 4, c. 17, to sums and demands not exceeding 50 *l.*

Courts should be held frequently and at such places as may be convenient to the Suitors therein; **BE it therefore Enacted**, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the *passing of this Act*, the powers, authorities and provisions of the aforesaid recited Act, relating to the trial of issues before the Sheriff, shall be and the same are hereby extended to debts not exceeding *Fifty* Pounds.

2.
Attornies entitled to charge for Letters and Attendances.

And be it Enacted, That from and after the *passing of this Act*, all and every Attorney shall be allowed to charge and be paid by the debtor to whom application is made for payment, for every Letter sent by him for payment or in relation thereto, and for every Attendance in relation thereto, such sum or sums as the Judges of His Majesty's Courts of Law at Westminster shall deem right; and that no tender of the debt without payment of the charge or charges for the Letters and Attendances so to be settled by the Judges as aforesaid, where such shall have been sent and given, shall be deemed a legal tender.

3.
Attornies' costs in actions not exceeding 50 *l.* increased.

And be it Enacted, That from and after the *passing of this Act*, there shall be allowed to Attornies for and in respect of Actions for the recovery of debts not exceeding *Fifty* Pounds, such increase as the said Judges as aforesaid shall deem right.

4.
Times for holding Sheriffs' Courts.

And be it Enacted, That from and after the *passing of this Act*, the Sheriff of the County where the venue is laid, or his Deputy, shall sit to try issues under this Act, at every town in the country where there shall be a population of not less than *Five thousand*, once in every Month throughout the year, and that the fee to be paid to such Sheriff or Deputy Sheriff and his Officer, and the Jury for the trial of such issues, shall be also settled and decided by the said Judges as aforesaid.

Sheriffs' Courts.

A

B I L L

To extend the Powers of an Act of the Third and Fourth Years of his present Majesty, intituled, "An Act for the further Amendment of the Law and the better Advancement of Justice."

(*Prepared and brought in by*
Captain Pechell and Mr. Wigney.)

Ordered, by The House of Commons, *to be Printed,*
7 *February* 1837.

17.

26 *April* 1837.—7 WILL. IV.

A
BILL

[AS AMENDED BY THE COMMITTEE]

To extend the Powers of an Act of the Third and Fourth Years of His present Majesty, intituled, "An Act for the further Amendment of the Law and the better Advancement of Justice."

Preamble.

WHEREAS an Act was passed in the third and fourth years of the reign of His present Majesty, intituled, "An Act for the further Amendment of the Law and the better Advancement of Justice:" And whereas by the said Act it is enacted, that in any Action depending in any of the Superior Courts of Common Law at *Westminster*, for any Debt or Demand in which the sum sought to be recovered and endorsed on the Writ of Summons shall not exceed Twenty Pounds, it shall be lawful for the Court in which such Suit shall be depending, or any Judge of any of the said Courts, to order and direct that the issue or issues joined shall be tried before the Sheriff of the County in which the Action is brought, or any Judge of any Court of Record for the recovery of debt in such County: And whereas the Trials under the provisions of the said Act have given great satisfaction to Suitors, and it is expedient that the provisions of the said Act should be extended to Debts not exceeding Fifty Pounds; **BE it therefore Enacted**, by The King's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the passing of this Act, the powers, authorities and provisions of the aforesaid recited Act, relating to the trial of issues in Actions for any Debt or Demand not exceeding Twenty Pounds before the Sheriff, shall be and the same are hereby extended to Debts or Demands not exceeding Fifty Pounds.

Extends provisions of 3 & 4 Will. 4, c. 42, s. 42, to Sums and Demands not exceeding 50*l.*

Sheriffs' Courts.

A

B I L L

[AS AMENDED BY THE COMMITTEE]

To extend the Powers of an Act of the Third and Fourth Years of His present Majesty, intituled, "An Act for the further Amendment of the Law and the better Advancement of Justice."

(*Prepared and brought in by*
Captain Pechell and Mr. Wigney.)

Ordered, by The House of Commons, *to be Printed,*
26 *April* 1837.

247.

A

B I L L

[AS AMENDED ON RE-COMMITMENT]

To extend the Powers of an Act of the Third and Fourth Years of His present Majesty, intituled, "An Act for the further Amendment of the Law and the better Advancement of Justice."

WHEREAS an Act was passed in the third and fourth years of the reign of His present Majesty, intituled, "An Act for the further Amendment of the Law and the better Advancement of Justice:" And whereas by the said Act it is enacted, that in any Action depending in any of the Superior Courts of Common Law at *Westminster*, for any Debt or Demand in which the sum sought to be recovered and indorsed on the Writ of Summons shall not exceed Twenty Pounds, it shall be lawful for the Court in which such Suit shall be depending, or any Judge of any of the said Courts, to order and direct that the issue or issues joined shall be tried before the Sheriff of the County in which the Action is brought, or any Judge of any Court of Record for the recovery of debt in such County: And whereas another Act was passed in the fifth year of the reign of His present Majesty, intituled, "An Act for improving the Practice and Proceedings in the Court of Common Pleas of the County Palatine of *Lancaster*:" And whereas by the said last-mentioned Act it is enacted, that in any Action depending in the said Court of Common Pleas at *Lancaster*, for any Debt or Demand in which the sum sought to be recovered and indorsed on the Writ of Summons shall not exceed Twenty Pounds, it shall be lawful for the said Court, or any Judge thereof, to order and direct that the Issue or Issues joined shall be tried before the Sheriff of the County Palatine of *Lancaster*, or any Judge of any Court of Record for the recovery of Debt in such County: And whereas the Trials under the provisions of the said Acts have given great satisfaction to Suitors, and it is expedient that the provisions of the said Acts should be extended to Preamble.

Extends provisions of 3 & 4 Will. 4, c. 42, s. 17, and 5 Will. 4, c. 62, s. 20, to Sums and Demands not exceeding 50 *l.*

Debts not exceeding Fifty Pounds; **Be it therefore Enacted**, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the passing of this Act, the powers, authorities and provisions of the aforesaid recited Acts, relating to the trial of issues in Actions for any Debt or Demand not exceeding Twenty Pounds, shall be and the same are hereby extended to Debts or Demands not exceeding Fifty Pounds: Provided always, That nothing herein contained shall authorize the Trial before such Sheriff of any Issue for or in respect of any Debt or Demand exceeding the sum of Twenty Pounds, unless a Barrister of not less than Three Years' standing shall preside as Assessor at the Trial of such Issue.

Sheriffs' Courts.

A

BILL

[AS AMENDED ON RE-COMMITMENT]

To extend the Powers of an Act of the Third and Fourth Years of His present Majesty, intituled, "An Act for the further Amendment of the Law and the better Advancement of Justice."

(Prepared and brought in by Captain Pechell and Mr. Wigney.)

Ordered, by The House of Commons, to be Printed,
14 June 1837.

396.

A
BILL

For better regulating the Fees payable to Sheriffs, Under Sheriffs and Bailiffs, upon the Execution of Civil Process.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble:

WHEREAS it is expedient to amend the Laws relating to the Fees payable to Sheriffs, Under Sheriffs, Deputy Sheriffs, Sheriffs' Agents, Bailiffs and others the Officers or Ministers of Sheriffs in England and Wales, and to give the Courts of Record at Westminster Hall a due control over such Fees; and also to provide a summary remedy against such Officers and others as shall extort or receive other or greater Fees than by law they shall be entitled to:

And whereas divers Enactments touching the said Officers, contained in certain ancient Statutes, have become inconvenient, and ought to be repealed;

1. Repeal of certain Acts.
1369.
Cap. 9.
42 Ed. 3, c. 9.
1412.
Cap. 4.
1445.
Cap. 8.

BE it therefore Enacted, by The KING's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT so much of an Act passed in the forty-second year of his late Majesty King Edward the Third, intituled, "Estreats shall be shewed to the Party indebted, and that which is paid shall be tolled: no Sheriff, et cætera, shall continue in Office above a Year," as relates to the time during which Under Sheriffs and Sheriffs' Clerks may abide in their respective offices; also an Act passed in the first year of the reign of his late Majesty King Henry the Fifth, intituled, "Sheriffs' Bailiffs shall not be in the same Office in three Years after: Sheriffs' Officers shall not be Attornies;" and also so much of an Act passed in the twenty-third year of the reign of his late Majesty King Henry the Sixth, intituled, "No Sheriff shall let to farm his County or any Bailiwick, the Sheriffs and Bailiffs' Fees and Duties in many cases," as relates to the Fees to be taken by Sheriffs, Under Sheriffs, Sheriffs' Clerks and other Officers and Ministers of Sheriffs, be hereby Repealed.

2.
Sheriffs to take only such Fees as are allowed by Taxing Officer of Courts of Law at Westminster.

And be it further Enacted, That from and after the *passing of this Act* it shall be lawful for Sheriffs, or their Officers concerned in the execution of process directed to Sheriffs, to demand, take and receive such Fees, and no more, as from time to time be allowed by the Officer of the Courts of Law at Westminster charged with the duty of taxing Costs in such Courts, under the sanction and authority of the Judges of the said Courts.

3.
Penalty for taking greater Fees than those allowed.

And be it further Enacted, That any Sheriff, Under Sheriff, Deputy Sheriff, Sheriffs' Agent, Bailiff or other Officer or Minister acting in the execution of process directed to any Sheriff or Sheriffs, or engaged or concerned therein, who shall extort, demand, take, accept or receive from any person or persons any Fee or Fees, Gratuity or Reward not allowed as aforesaid, or greater in amount than as allowed as aforesaid, such Sheriff or other his Officer or Minister, upon complaint thereof made against him to any of the said Courts, and on proof being made thereof upon oath, either by the examination of witnesses vivâ voce, or on affidavits, or on interrogatories, to the satisfaction of the Court to which the said complaint shall be made, that such Sheriff or other his Officer or Minister hath offended therein as aforesaid, then and in such case every such Sheriff or other his Officer or Minister shall be adjudged guilty of a contempt of such Court, and punished by such Court accordingly; and if any person, not being such Officer or Minister as aforesaid, shall assume or pretend to act as such, and shall extort, demand, take, accept or receive any Fee or Fees, Gratuity or Reward, under colour or pretext of such office, he shall, on like complaint and proof, be in that respect dealt with by the Court in like manner.

4.
Court may award Costs.

And be it further Enacted, That in all cases of summary complaints as aforesaid, the Court before which such complaint shall be preferred, may at its discretion award the Costs of or occasioned by such complaint, to be paid by either party to the other; such Costs to be taxed by the Master of such Court: Provided always, That no such complaint shall be entertained unless made before the last day of Term next following the act whereof complaint is made.

5.
Notice of cause of complaint to be given to Sheriffs Ten Days before complaint is made.

And be it further Enacted, That the Sheriff or Sheriffs on whose behalf any Under Sheriff, Deputy Sheriff, Sheriffs' Agent or other Officer or Minister, shall act in the execution of any process to such Sheriff directed, shall, together with such Under Sheriff, Deputy Sheriff, Sheriffs' Agent or such other Officer or Minister, be liable to the pains and penalties of this Act, in respect of all offences against the same which shall be committed by such Under Sheriff, Deputy Sheriff, Sheriffs' Agent or such other Officer or Minister aforesaid: Provided always, That no such complaint shall be made against any Sheriff in respect of any offence against this Act committed by his Officers or Ministers, or any of them, unless notice in writing, setting forth the cause of such complaint, containing the true name, addition and place of abode of the party complaining, shall be served upon such Sheriff, or left at the office of his Under Sheriff or Agent, *Ten* Days before such complaint shall be made.

6. Act to be deemed Public.

And be it further Enacted, That this Act shall be deemed and taken to be a Public Act; and shall be judicially taken notice of as such by all Judges, Justices and others.

7. Act may be amended during present Session.

And be it further Enacted, That this Act may be amended, altered or repealed by any Act to be passed in the present Session of Parliament.

Sheriffs' Fees.

A

B I L L

For better regulating the Fees payable to Sheriffs, Under Sheriffs and Bailiffs, upon the Execution of Civil Process.

(Prepared and brought in by
Mr. Tooke and Mr. Serjeant Wilde.)

Ordered, by The House of Commons, *to be Printed,*
15 *March* 1837.

117.

21 *March* 1837.—7 WILL. IV.

A

BILL

To regulate the Constitution, Jurisdiction and Forms of Process of Sheriff and Burgh Courts in Scotland.

[Note.—The Words and Clause printed in *Italics* are proposed to be inserted in the Committee.]

Preamble.

WHEREAS the office of Sheriff and the Sheriff Courts in Scotland have been found to be of great utility, by affording in all ordinary cases a cheap and speedy administration of Justice:

And whereas it is expedient to regulate the Constitution and enlarge the Jurisdiction of Sheriff Courts, to abolish the Civil Jurisdiction of Magistrates of Burghs, and transfer the same to Sheriffs or other competent local Judges in Burghs invested with similar Jurisdiction, and to amend the Forms of Proceedings in Sheriff and Burgh Courts;

1. So much of 20 Geo. 2, as requires residence of Sheriffs in their Counties, repealed.

Be it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT so much of an Act passed in the twentieth year of the reign of his Majesty King GEORGE the Second, for taking away and abolishing the heritable Jurisdictions in Scotland, and for certain other purposes, as enacts that every Sheriff-Depute and Stewart-Depute shall be and reside personally within his County, Shire or Stewartry, during the space of Four Months at least in the year, and also so much of the said Act as enacts a penalty upon being convicted of not so residing, shall be and the same is hereby Repealed.

2. Sheriff-Depute to hold eight Courts each year.

Provided always, and be it further Enacted, That every Sheriff Depute shall be and attend personally within his Sheriffdom upon all necessary and proper occasions, and shall hold at least Eight Courts within his Sheriffdom during each year, unless prevented by indisposition.

3.
Sheriff-Deputes required to be in habitual attendance on the Court of Session.

And be it Enacted, That every person who shall be hereafter appointed to the office of Sheriff-Depute of a County shall be an Advocate of *Three* Years' standing at least, and shall have been, at the time of his appointment, either in practice before and in habitual attendance upon the Court of Session, or in the exercise of judicial functions in the Court of a Judge Ordinary in Scotland; and that after such appointment, every such Sheriff, with the exception of the Sheriffs of the Counties of Edinburgh and Lanark, shall continue to be in habitual attendance upon the said Court of Session during the Sittings thereof; declaring that if any such Sheriff, excepting as aforesaid, shall not so attend the said Court, it shall be competent for His Majesty's Advocate, or for any *Four* or more of the registered voters entitled to vote in elections of Members to serve in Parliament for such county, to present a summary petition and complaint to the Court of Session, complaining of such non-attendance, and the same being thereupon duly investigated and established upon a summary trial before the said Court, such Sheriff shall be deprived of his office.

4.
Sheriff-Substitutes not removable, except with consent of Lord President and Lord Justice Clerk.

And be it Enacted, That Sheriff-Substitutes, who shall have been or may be appointed with the approbation of the Lord President of the Court of Session in Scotland, and Lord Justice Clerk, according to the provisions of an Act passed in the sixth year of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act for the better Regulation of the Sheriff and Stewart and Burgh Courts of Scotland," shall not hereafter be removable from their offices by the present or any future Sheriff, unless with the consent of the Lord President and Lord Justice Clerk for the time being, expressed in writing to that effect: Provided always, That Sheriff-Deputes shall not hereafter be answerable for their Substitutes, any thing in the Commissions of Sheriff-Deputes or in the before-recited Act of the twentieth year of the reign of his Majesty King GEORGE the Second to the contrary notwithstanding.

5.
Sheriff-Substitutes to continue to hold office on the death of Deputes.

And be it Enacted, That on the death, resignation or removal of any Sheriff-Depute, his Substitute or Substitutes shall continue to hold his or their offices, and to exercise all the jurisdictions, powers or authorities thereto belonging, without the necessity of any new appointment or commission from the succeeding Sheriff: Provided always, That appeals may be taken in causes decided by such Sheriff-Substitute to the Sheriff to be appointed, which shall be laid before such Sheriff when he shall enter upon his office.

6. Sheriff-Substitutes to reside within their Sheriffdoms.

And be it Enacted, That every person holding the office of Sheriff-Substitute shall reside personally within his Sheriffdom, and shall not be absent therefrom more than *Six* Weeks in any year, without the special consent in writing of the Sheriff of such County for the time being, who shall be bound, in the event of his giving such consent, either to attend personally within his Sheriffdom during the absence of such Substitute, or to appoint another duly qualified Substitute to act in his stead; and it shall not hereafter be lawful for any Sheriff-Substitute to act as Agent, Conveyancer or Factor for any person whatever.

7. Superannuation Allowances to Sheriffs.

And be it Enacted, That His Majesty and His heirs and successors may grant an annuity, payable in like manner as salaries to Sheriffs or Sheriff-Substitutes, to any person who shall have held the office of Sheriff or Sheriff-Substitute, according to the proportions and with reference to the amount of their salaries and the periods of their services as hereinafter mentioned, if from old age or any permanent infirmity such person shall have been or may hereafter be disabled from the due exercise of his office: Provided that such annuity shall not exceed One-third of the salary payable to such person, in case the period of his service shall have been not less than Ten Years; and shall not exceed One-half of such salary, in case the period of service shall have been not less than Fifteen Years; and shall not exceed Three-fourths of such salary, in case the period of service shall have been not less than Twenty Years or upwards: Provided also, That no such annuity shall be granted, unless such Sheriff or Sheriff-Substitute shall have duly fulfilled the duties of his office during one of the periods before mentioned, and is from old age or infirmity disabled from the due exercise of his office, which facts shall be certified by the Lord President, the Lord Justice Clerk, and the Lord Advocate for the time being, as having been established to their satisfaction by proper evidence.

8. Peebles and Selkirk under one Sheriff.

And be it Enacted, That upon the first vacancy which shall happen in the office of Sheriff-Depute of either of the counties of Peebles or Selkirk, it shall be lawful for His Majesty, and His heirs or successors, to appoint a person to the said office, and in case of his death, resignation or removal, another or others successively in his stead, under the condition that such person shall, upon a vacancy happening in the office of Sheriff-Depute of the other of the said two counties, discharge all the duties of Sheriff of such other county, without any additional salary; and upon a vacancy happening in the office of Sheriff-Depute of such other county, the same shall not be filled up, but the said Sheriff so to be appointed as aforesaid and his successors in office, shall be and they are hereby declared to be in future the Sheriffs of the counties of Peebles and Selkirk, with the like powers, privileges, authorities and jurisdictions as were possessed or exercised by the Sheriffs of the said counties which shall continue separate in their boundaries, jurisdictions and rights until otherwise provided by Parliament;

ment: Provided always, That it shall be lawful for His Majesty and His heirs or successors, upon the first vacancy which shall happen as aforesaid, to appoint the remaining Sheriff of the said counties to be the Sheriff of the Sheriffdom of the said counties as aforesaid, with such allowance out of the salary previously payable to the Sheriff of the other of the said two counties as to His Majesty or His heirs or successors, may seem proper.

9.
Civil Jurisdiction of Burgh Courts abolished, and transferred to Sheriffs or local Judges.

And be it Enacted, That all civil jurisdictions, powers or authorities belonging to or exercised by the Courts of the Magistrates of Royal Burghs of Scotland, or by the Courts of the Magistrates of Burghs of Regality, or Burghs of Barony in Scotland, or the Courts of the Magistrates of Burghs or Towns in Scotland, not being Royal Burghs, entitled to return, or to contribute in returning Members to serve in Parliament, and to which Burghs and Towns the right of electing Magistrates, with certain powers and jurisdictions was conferred by an Act of the third and fourth year of the reign of His present Majesty, intituled, "An Act to provide for the Appointment and Election of Magistrates and Councillors of the several Burghs and Towns in Scotland, which now return, or contribute to return Members to Parliament, and are not Royal Burghs," or any Magistrate or Magistrates of such Burghs or Towns, sitting in judgment, or any Dean of Guild, or Dean of Guild Court of such Burghs or Towns, shall from and after the periods hereinafter provided, cease and determine, and the same are hereby after the said periods dissolved and extinguished; provided that the Magistrates of such Burghs and Towns shall retain such power of taking affidavits or declarations, or of performing such other ministerial acts of civil jurisdiction as they have hitherto possessed, and may competently exercise; and provided also, That this Act shall not affect the civil jurisdictions, powers or authorities belonging to such Magistrates as Justices of the Peace; and the said whole civil jurisdictions, powers or authorities, hereby dissolved and extinguished, shall be and the same are hereby transferred to the several Sheriffs and Sheriff Courts of the counties in which such Burghs and Towns are respectively situated, in case no local Judge shall have been appointed for any of such Burghs or Towns in terms of this Act; and in case a Sheriff shall have been appointed as local Judge for any of such Burghs or Towns at the time when the provisions of this Act abolishing and transferring the foresaid jurisdictions, powers and authorities, shall take effect with respect to any of such Burghs or Towns, then in so far as regards such Burgh or Town, the same shall be and are hereby transferred to the Sheriff who may have been so appointed for any of such Burghs or Towns.

10.
Proceedings in dependence.

And be it Enacted, That all actions and proceedings which may be depending before any Burgh Court at the time when the provisions of this Act, abolishing the Civil Jurisdiction of Burgh Courts as aforesaid, may take effect, shall be transferred to the Court of the Sheriff of the County, or of the Burgh or Town wherein such action or proceeding might have originated, if this Act had taken effect previously to the commencement of such actions or proceedings, and the same shall thereupon be heard and determined in the same manner as if they had been brought before such Sheriff in the first instance; and as soon as conveniently may be, the processes in all such depending actions or proceedings shall be transmitted accordingly to such Sheriff Court by the Town Clerk or Clerk of such Burgh Courts, together with an inventory made by the said Clerk, to the accuracy whereof he shall make oath, if required: Provided always, That if any doubt shall arise touching the transmission of any such process, it shall be competent to the Sheriff of the county, Burgh or Town, wherein such doubt may arise, to apply to the Lord Ordinary on the Bills, who shall give directions thereupon, and whose directions shall be final; and the Sheriff-Clerks of the several counties of Scotland shall respectively act as Clerks in the Sheriff Courts in all such actions and proceedings so transferred as aforesaid to the Sheriff Courts of Counties, and the Town Clerks of the several Burghs and Towns, or a clerk specially appointed for that purpose by the Magistrates and Council of such Burgh or Town, shall act as Clerks in the Sheriff Court in any Burghs or Towns for which Sheriffs shall have been or may be appointed, and all such Clerks shall be subject to the provisions and regulations in this Act contained relative to fees and emoluments.

11.
Agents in Burgh Courts to be Agents in Sheriff Courts.

And be it Enacted, That it shall and may be lawful for every person entitled to conduct as Agents any actions and proceedings before any of the said Burgh Courts; and every such person is hereby authorized to conduct as Agent before the respective Sheriff Courts to which the civil jurisdiction heretofore competent to such Burgh Court may be transferred by virtue of this Act, all or any civil actions and proceedings which are or may be competently heard and determined in such Sheriff Court; such Agents being responsible to the Sheriff for malversation, in the same way as if they had been originally admitted Procurators for his Court.

12.
His Majesty may appoint Sheriffs for certain Burghs and Towns.

AND whereas in consequence of the abolition of the Civil Jurisdiction of the Courts of Burghs and Towns, the Sheriff-Courts of some counties in which large Burghs or Towns are situated may be overburthened with business; and whereas it is expedient that provision should be made to enable such of the large Burghs and Towns as may desire it, to obtain properly constituted local Courts exercising civil and criminal jurisdiction within their respective boundaries, of the like nature and extent as the Sheriff Courts, and cumulatively and co-ordinately therewith; BE it Enacted, That the Magistrates and Council of any Royal Burgh, or of any Burgh or Town

entitled

entitled to return or contribute in returning Members to serve in Parliament, who shall be desirous that a local Judge shall be appointed for such Burgh or Town in terms of this Act, shall signify the same by petition to His Majesty in Council, setting forth the grounds of the application, the state of the judicial business and duties within such Burgh or Town, and also the business and duties in matters of Police, if judged expedient, and the salary which they are willing to pay to the said Judge, and any conditions of residence or otherwise which may be deemed expedient; and it shall be lawful for His Majesty, or His Heirs and Successors, to appoint for such Burghs or Towns, or for any *Two* or more of such Burghs or Towns conjointly, a fit person to be such local Judge, who shall be and be called the Sheriff of such Burgh or Town or Burghs and Towns, and shall hold such office during his good behaviour; and upon any vacancy in any such office, to appoint another fit person to be the Sheriff in place of the person so making such vacancy, and the Town Clerk of such Burghs or Towns, or a Clerk specially appointed for that purpose by the Magistrates and Council, shall be Clerks to the said Sheriff's Court; and the Sheriff for the time being of any Burgh or Town shall be a Justice of the Peace of and for such Burgh or Town, and such Sheriff shall have precedence in all places within the Burgh or Town of which he may be the Sheriff next after the Provost thereof; and in such case it shall be lawful for His Majesty, or His Heirs and Successors, to direct that an Annual Salary, not exceeding the sum stated in the petition of the Magistrates and Council, shall be paid to such Sheriff by the Treasurer of such Burgh or Town out of the funds thereof, or out of the fees payable to the Clerk of such Sheriff's Court, according to any arrangement to that effect which may be made between the Magistrates and Town Council, and the Town Clerk or Clerk of such Court, and which they are hereby empowered to make, and to impose such conditions of residence or otherwise on such Sheriff as to His Majesty may seem proper: Provided always, That the Sheriff to be appointed for the Cities of Edinburgh and Glasgow shall be Advocates of not less than *Three* Years standing, and shall have been at the time of their appointment either in practice before and in habitual attendance upon the Court of Session, or in the exercise of judicial functions in the Court of a Judge ordinary in Scotland, and that all other such local Judges shall be persons qualified to be certified and appointed Sheriff-Substitutes in terms of the before-recited Act of the sixth year of his late Majesty King GEORGE the Fourth, and that no person being such Judge as aforesaid shall be eligible to serve in Parliament for such Burgh or Town, nor shall be a Magistrate or Councillor thereof: Provided also, That in case the state of judicial or police business may require it, or in the case of sickness or unavoidable absence, the Sheriff of any Burgh or Town shall be empowered, by writing on unstamped paper under his hand, with the consent of the Magistrates and Council of such Burgh or

Town, and under such conditions in regard to the constitution of the office and the duties and emoluments thereof as to the said Sheriff and magistrates may seem proper, to appoint a Substitute, being a person qualified to be certified and appointed Sheriff-Substitute as aforesaid to act for him.

13.
Sheriffs to make declaration.

And be it Enacted, That no such Judge shall be capable of acting as a Judge or Justice of the Peace within any such Burgh or Town until he shall have made before the Provost, or before any *Two* or more of the Magistrates or Councillors of such Burgh or Town (who is and are hereby authorized and required to administer the same), a declaration in the following form; (that is to say)

> "I, A. B., do hereby declare, That I will faithfully and impartially execute the office of Sheriff of the Burgh [or Town] of according to the best of my judgment and ability."

14.
Jurisdiction of Sheriffs of Towns.

And be it Enacted, That the jurisdictions, powers and authorities of Sheriffs of Burghs or Towns appointed in terms of this Act, shall extend over the Burghs or Towns for which they shall be respectively appointed, according to the boundaries thereof determined by an Act passed in the second and third years of the reign of His present Majesty, intituled, "An Act to amend the Representation of the People in Scotland," and such Sheriffs shall possess and exercise the like civil and criminal jurisdictions, powers and authorities which are or may be competent to Sheriffs of Counties in Scotland, and to the Magistrates of the Burghs for which they shall be appointed, and also the jurisdictions powers and duties of Judge of Police, in case the appointment shall comprehend such duties, and may hold Courts Civil and Criminal of the like kind and description as Sheriffs or Judges of Police may hold, at such times as may be expedient, all proper accommodation for holding the same being provided by such Burghs or Towns: Provided always, That the jurisdictions, powers, authorities and privileges of the Sheriffs of the counties within which such Burghs or Towns may be situated shall not be excluded within such Burghs or Towns; and Provided also, that the criminal jurisdictions, powers and authorities of the Magistrates of Burghs and Towns shall not be affected by this Act; but the Sheriff of any Burgh or Town shall be entitled to be present and act as a Member of any Criminal Court held by such Magistrates.

15.
Forms of Process.

And be it Enacted, That the forms of proceedings in the Courts of Sheriffs of Burghs and Towns shall be the same as those in use in the other Sheriff Courts in Scotland, and the whole laws, Acts of Sederunt and usages, presently or which may hereafter be applicable to the forms of proceedings in Sheriff Courts are hereby applied, in so far as the same are and shall be applicable to the Courts of Sheriffs of Burghs or Towns, and to litigants, agents and officers therein, and to the periods of session and vacation of such Courts, and to the mode and form of reviewing the judgments thereof by the Supreme Courts; and it shall also be competent to appeal from any judgment pronounced by a Substitute appointed by a Sheriff of a Burgh or Town to the Sheriff of such Burgh or Town, in like manner as in other Sheriff Courts.

16.
His Majesty may appoint Sheriffs of Burghs without Petition.

And be it Enacted, That His Majesty, and His heirs and successors, may appoint a Sheriff for any Burgh or Town, or for any *Two* or more of such Burghs or Towns conjointly as aforesaid in terms of this Act, without Petition from the Magistrates and Council thereof, and may impose upon him such conditions of residence or otherwise and such duties as may be judged proper, and may assign to him an adequate salary, which shall be payable in like manner as salaries to Sheriffs or Sheriff-Substitutes; and such Sheriff shall possess and exercise the jurisdictions, powers, authorities and privileges conferred upon Sheriffs of Burghs and Towns by this Act; and the Magistrates and Council of the Burgh or Town shall provide such Sheriff with all proper accommodation for holding Courts.

17.
Office of Sheriff-Substitute of Leith to cease.

And be it Enacted, That upon the death, resignation or removal of the present Sheriff-Substitute of Leith, his office as Sheriff-Substitute and Admiral-Depute shall cease and determine, and his whole jurisdictions and duties shall be merged and vested in the Sheriff-Depute of the County of Edinburgh and his substitutes; and it shall then be lawful to the Sheriff-Depute of the County of Edinburgh for the time being, with the consent and approbation of His Majesty's principal Secretary of State for the Home Department for the time being, to appoint an additional Sheriff-Substitute, with an adequate salary, to whom shall be assigned the jurisdictions and duties presently belonging to the Sheriff-Substitute of Leith, as Sheriff-Substitute and Admiral-Depute, together with such further jurisdictions and duties within the said County as may be judged expedient by the said Sheriff-Depute, with the consent and approbation aforesaid.

18.
Sheriffs may appoint Substitutes in Burghs for certain purposes in cases not opposed.

And be it Enacted, That each Sheriff to whom jurisdiction is transferred as aforesaid from the said Burgh Courts, shall be and each of them is hereby empowered, when he shall see cause, and without the certificate of the Lord President or Lord Justice Clerk, to appoint by a writing on unstamped paper under his hand, the Town-Clerk or other fit and competent person, residing in any Burgh or Town in his Sheriffdom in which there shall be no resident Sheriff, although not qualified in terms of the before-recited Act of the sixth year of the reign of his late Majesty, to be his Substitute within such Burgh or Town during his pleasure, and for whom he shall be answerable, for the purpose and with the power of authorizing sequestrations and sales for rent, receiving and disposing of petitions for

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removing from heritable subjects let for less than a year in terms of this Act, granting warrants of ejection of tenants, deciding on the aliment of prisoners and their right of liberation under the Act commonly known as the Act of Grace, and under sick bills, and taking affidavits or declarations: Provided, That if in any such case, the petition or application to such Substitute shall be opposed by the party against whom the same shall be made, the whole proceedings in such case shall be immediately removed and transferred from such Substitute to the Ordinary Court of such Sheriff for the district within which such Burgh or Town may be situated; and such Town-Clerk, or other person appointed Substitute as aforesaid, shall be paid by the usual fees upon such proceedings, subject to the conditions herein provided, and no further fees shall be payable to any Clerk of such Substitute.

19. Summary Petition for removing from premises let for less than a year.

AND whereas it is expedient to diminish the expense and delay with which the process of warning and removing from houses and other heritable subjects let for less than a year in Scotland is attended; BE it Enacted, That where houses or other heritable subjects in Scotland are let for a period less than a year, it shall be competent for any person, authorized by law to pursue a removing therefrom, to present a Petition or induciæ of not less than *Six* free Days to the Sheriff of the territory, at any time before the expiration of the period for which the said premises are let, or before the expiration of any further period to which tacit relocation may have taken place, in the form or to the effect of Schedule (A.) annexed to this Act.

20. Removing to be tried and determined summarily.

And be it Enacted, That the Sheriff after service of such Petition on the defender personally, or at the premises as after provided, and after the induciæ are elapsed, shall try and determine the cause in a summary manner vivâ voce, and if he shall see cause, decree shall be pronounced, ordaining the tenant or person in possession to remove; and the decree stating the amount of the expenses, if any found due to any party (which may include personal charges, if thought fit), shall be annexed to the Petition, and on the same paper with it, agreeably or to the effect of the form in the said Schedule (A.), which decree being signed by the Clerk, shall have the full effect of a decree of removing after the lapse of *Ten* free Days from the date of the decree.

21. Mode of serving Petition, if no person on the premises.

And be it Enacted, That if the Defender cannot be found personally, and if no person shall be found on the premises, a copy of the Petition and service thereof shall be attached to the door, or such other place as may be found most convenient on or adjoining to the premises, and, the same being reported to the Court, the Sheriff shall proceed to determine the cause in the same manner as if the notice had been served personally on the Defender.

22.
Warrant to cite Witnesses, and provision as to Fees.

And be it Enacted, That the Petition or copy thereof served on the Defender shall be a sufficient warrant to any Messenger-at-Arms, or Sheriff Officer, or other competent Officer of the Law, to cite witnesses for either party to appear on the day of trial and give evidence in such summary cases of warning and removal, and the fees allowed to the Clerk or Officers of Court shall be those allowed in similar cases by the Act passed during the present Session of Parliament, intituled, "An Act for the more effectual Recovery of Small Debts in the Sheriff Courts, and for establishing Circuit Courts for the Trial of Small Debt Causes by the Sheriffs in Scotland."

23.
Sheriff may remove cause to his ordinary Court.

And be it Enacted, That the Sheriff may, where the ends of Justice or the convenience of parties require it, pronounce an order, adjourning and removing the further hearing of or procedure in any summary process of warning or removing raised under the authority of this Act, to his Ordinary Court, and such cases shall thereafter be conducted as nearly as may be, according to the forms in use in such Ordinary Court in processes of warning and removing.

24.
Decree not subject to renew, except under provisions of Small Debt Act.

And be it further Enacted, That no order or Decree given by any Sheriff in any summary process of warning or removing, raised under the Authority of this Act, shall be subject to reduction, advocation, suspension or appeal, or any other form of Renew or stay of execution, other than provided by the before recited Act, passed during the present Session of Parliament, intituled, "An Act for the more effectual Recovery of Small Debts in the Sheriff Courts, and for establishing Circuit Courts for the Trial of Small Debt Causes by the Sheriffs in Scotland," either on account of any omission or irregularity or informality in the citation or proceedings, or on the merits or on any ground or reason whatever: Provided always, that appeal shall be competent against such order or decree, in the manner and under the conditions and provisions contained in the said recited Act.

25.
Members of College of Justice not exempt.

And be it Enacted, That no person shall be exempt from the Jurisdiction of the Sheriff in any process of warning or removing raised under the authority of this Act, on account of privilege, or being a member of the College of Justice.

26.
Registration of Deeds in Burgh-Courts abolished.

And be it Enacted, That the powers and privileges belonging to or exercised by the said Courts of burgh and towns, of registering in their books deeds or instruments for the purpose of execution following thereon, shall cease and determine, and the same are hereby extinguished and dissolved.

27.
Sheriffs' Jurisdiction extended in Questions of Nuisance and Servitude.

And be it Enacted, That the jurisdiction, power and authority of Sheriffs of Scotland shall be and the same is hereby extended to all actions or proceedings relative to questions of nuisance or damages arising

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arising from the alleged undue exercise of the right of property, and also to questions touching either the constitution or the exercise of real or prædial servitudes.

28. Preparation of Records.

AND whereas it is expedient to prevent undue expense and delay in the preparation of Records and in the Argument in Causes in Sheriff Courts; BE it Enacted, That after lodging the summons and defences or other papers on each side by which a cause is originated, wherein it may be necessary to prepare a Record, the Sheriff shall appoint the parties or their procurators to appear before him either in Court or at Chambers, as may be convenient, and shall examine into the relevancy and regularity of the proceedings, in like manner and to the same effect as at present, after lodging summons, defences and replies, and the Record shall then be closed, if parties are prepared to do so; but if not, the Sheriff shall then either appoint replies or replies and duplies to be given in, in which the statements of fact shall be kept separate from the Pleas in Law, or in case it may appear more expedient, he may at once, and by an order not subject to petition or appeal, appoint condescendence and answers to be given in, with pleas in law subjoined thereto, which shall be allowed to be revised once, all additions or amendments on revisal being made to and upon the original papers; and after revisal, the Sheriff shall again appoint parties to be heard in Court or at Chambers with a view to close the Record, with or without any further additions or amendments which may still require to be made on the original papers in presence of the Sheriff, and no further revisal or new or substituted paper shall be allowed without the express authority of the Sheriff, who is hereby required to award reasonable expenses against any party who may have caused undue expense or delay in the preparation of the Record.

29. Sheriff to hear Parties on closed Records.

And be it Enacted, That after the Record shall be closed the Sheriff shall hear parties on the merits of the cause, and shall take a note of the arguments and authorities adduced, which shall form part of the process, and shall thereupon decide the cause or order a proof, or, in causes of difficulty and importance, appoint cases to be given in, or pronounce such other order or interlocutor as may be just.

30. Proofs in Scotland to be taken by Sheriffs.

And be it Enacted, That in all causes in which a proof is ordered to be taken within Scotland in any Sheriff Court, such proof shall be taken by the Sheriff or Sheriff-Substitute before whose Court the cause may depend, or if more convenient, by any Sheriff or Sheriff-Substitute of the County or Burgh or Town in which the proof may be ordered to be taken, to whom a remit shall be made for that purpose; and in taking such proofs, the Sheriff shall have power to dispose of all incidental questions of law, or objections which may arise, and may seal up the evidence in the mean time, taking a note of the question or objection for after consideration and decision, or adopt such other measures as may tend to prevent expense and delay, and be consistent with the ends of justice; and no Sheriff shall be entitled to any remuneration for taking such proofs in causes depending in his own county: Provided always, That the parties in the cause shall defray his necessary expenses.

31.
Parties to be heard on Proofs and Judgment.

And be it Enacted, That after a proof shall be reported, the Sheriff shall hear parties thereon, and shall take a note of the arguments and authorities to the effect aforesaid; and if there shall have been no previous written argument in the cause, and if it be a cause of difficulty and importance, he may appoint cases to be given in, and shall thereafter pronounce judgment; and in all cases the Sheriff shall annex to his judgment a statement of the grounds and reasons thereof.

32.
Where Cases lodged, no reclaiming Petition competent.

And be it Enacted, That in any cause in which the merits shall have been argued in cases lodged by the parties after closing the Record, it shall not be competent to present any Reclaiming Petition: Provided, That where there shall have been no such written argument, a Reclaiming Petition in common form shall be competent before appeal to the Sheriff-Depute.

33.
Transmission Book to be kept by Sheriff Clerks.

And be it Enacted, That the Sheriff-Clerk of every Sheriff Court shall keep a book, in which he shall enter, in a tabular form, in columns, every cause transmitted to the Sheriff-Depute or Sheriff-Substitute, in order to be advised, specifying, in separate columns, ordinary and summary causes, the Sheriff to whom the same has been transmitted, the date of such transmission, and the date of the cause being returned advised.

34.
Suspensions in Sheriff Courts of Decrees in Absence by Sheriffs, and form of Suspension.

And be it Enacted, That where decree in absence in any civil cause shall have been pronounced or extracted in any Sheriff Court, or in any Burgh Court, the civil jurisdiction of which shall have been extinguished and transferred as aforesaid, it shall be competent to apply to the Sheriff Court in which such decree was pronounced, or to which the civil jurisdiction of such Court may be transferred, for suspension of the said decree, and on payment or consignation in the hands of the Clerk of Court of the expenses decerned for the said Sheriff shall have power to suspend the said decree, and repone the Defender, and revive the action or proceeding in which such decree had been pronounced, as if decree had not been pronounced or extracted; and the form of such application shall be by lodging with the Clerk a Petition of Suspension, signed by an Agent in such Court, reciting the import and effect of the decree sought to be suspended, and setting forth in a prayer the relief or remedy craved; and on consignation as aforesaid, such Petition shall be received and marked by the Clerk, and forthwith laid before the

Sheriff or his Substitute, who shall thereupon repone the Defender, and pronounce such order for intimation to and appearance to be made by the opposite party as may be just; and such order may be made and carried into execution against any person in any other county as well as in the county where such order is issued by producing such order to the Sheriff-Clerk of such other county and obtaining his indorsation thereon, and he is hereby required to make such indorsation upon payment of a fee of *One Shilling*; and such order being so made and carried into execution, by serving a copy of such Petition of Suspension and order thereon on the opposite party in common form, all further orders and interlocutors in the cause shall be sufficient and effectual.

35. Suspensions also competent in Sheriff Courts of charges for sums under 25 *l.*

And be it Enacted, That where a charge shall be given on a Decree of Registration proceeding on a bond, bill, contract, or other form of obligation, registered in any Sheriff Court Books, or in the Books of Council and Session, or any others competent, for payment of any sum of money not exceeding the sum of *Twenty-five Pounds* of principal, exclusive of interest and expenses, it shall be competent for any person so charged to apply in manner foresaid to the Sheriff Court of his domicile for suspension of the said charge, on caution; and on sufficient caution being found in the hands of the Clerk of Court for the sum charged for and interest and expenses to be incurred before the Sheriff, the said Court shall have power to suspend the said charge, and to order intimation of the Petition of Suspension, and answers to be given in thereto, and thereafter to proceed with the further disposal and decision of the cause in like manner as in ordinary summary causes in such Court: Provided that the said order for intimation and answers as aforesaid may be made and carried into execution against any person in any other county, as well as in the county where such order is issued in manner and to the effect hereinbefore provided.

36. Sheriff's Judgment repelling preliminary objection to competency of suspension final.

And be it Enacted, That if any Petition of Suspension as aforesaid shall be presented in any Sheriff Court, and a preliminary objection be made to the competency of such Petition, or to the competency or regularity of the intimation thereof, and the same shall be repelled by the Sheriff-Substitute, an appeal may be taken in common form to the Sheriff-Depute, whose judgment shall not be liable to advocation to the Court of Session, in case of his adhering to the Interlocutor of the Sheriff-Substitute repelling the objection as aforesaid.

37. Reclaiming note to Lord Ordinary in Bill Chamber against Sheriff's judgment refusing suspension.

And be it Enacted, That if any Petition of Suspension as aforesaid shall be refused by any Sheriff Court, it shall be competent to the Petitioner, within *Ten* Days from the date of such Judgment, or in case of the Judgment being pronounced by the Sheriff of Orkney, within *Twenty* Days from the date of such Judgment, to lodge a written reclaiming note in the Bill Chamber, signed by an agent in the Court of of Session, having prefixed thereto the Interlocutor or Interlocutors complained of, and setting forth in a prayer the relief or remedy craved; and such reclaiming note shall be received and marked by the Clerk in the Bill Chamber, and shall be forthwith laid before the Lord Ordinary on the Bills, who shall pronounce such interim order thereon as shall be just, and the Petitioner shall find additional caution for any expenses which may have been found due in the Sheriff Court, and also for such expenses as may be found due in the Court of Session: and a copy of the said note and of such order thereon shall be delivered within *Six* Days, or in the case of the Judgment being pronounced by the Sheriff of Orkney, within *Fifteen* Days after the said periods, to the Respondent or his known Agent; and a copy thereof, duly certified by the said Clerk shall be a sufficient warrant to the Sheriff-Clerk forthwith to transmit to the said Clerk the whole proceedings in the said process.

38.
Disposal of the cause by Lord Ordinary or Inner House.

And be it Enacted, That it shall be competent to the said Lord Ordinary to proceed with the disposal of such cause summarily, and on considering the process in the Inferior Court, and hearing counsel or agents thereon, if he shall see cause, he shall either grant or refuse such Petition of Suspension, or remit the cause to the Sheriff Court with such instructions as to him shall seem just; and it shall be competent to bring the judgment of the said Lord Ordinary under the review of the Inner House of the Court of Session by a printed reclaiming note in common form, reciting the Interlocutors complained of, and setting forth in a prayer the relief or remedy craved, and the said Inner House shall, upon hearing parties, proceed to dispose of the cause in a summary way, as shall seem to them to be just.

39.
Sheriff's Jurisdiction in maritime causes, under 1 Will. 4, c. 69, explained.

AND whereas by an Act passed in the first year of the reign of His present Majesty, intituled, "An Act for uniting the benefits of Jury Trial in Civil Causes with the ordinary Jurisdiction of the Court of Session, and for making certain other Alterations and Reductions in the Judicial Establishments of Scotland," it is enacted, that the Sheriffs of Scotland shall within their respective Sheriffdoms, including the navigable rivers, ports, harbours, creeks, shores and anchoring grounds in or adjoining such Sheriffdoms, hold and exercise original Jurisdiction in all maritime causes and proceedings, civil and criminal, including such as may apply to persons residing furth of Scotland, of the same nature as that heretofore held and exercised by the High Court of Admiralty: AND whereas doubts have arisen regarding the extent of such jurisdiction, and it is expedient that such doubts should be removed; BE it therefore Enacted and Declared, That the said recited Act shall be construed and held to mean that the powers and jurisdictions formerly competent to the High Court of Admiralty of Scotland

land in all maritime causes and proceedings, civil and criminal, shall be competent to the said Sheriffs and their Substitutes, provided the Defender shall, upon any legal ground of jurisdiction, be amenable to the jurisdiction of the Sheriff before whom such cause or proceeding may be raised.

40. Caution judicatum solvi not required in maritime causes in Sheriff Courts.

And be it Enacted, That in maritime causes or proceedings raised or brought before any Sheriff Court in Scotland, it shall not be competent to require caution judicatum solvi in any such cause or proceeding from any party who shall be domiciled in Scotland, any law or practice to the contrary notwithstanding.

41. Citation in Sheriff Courts in presence of One Witness sufficient.

And be it Enacted, That summonses, petitions and other proceedings in Sheriff Courts shall be deemed to be duly served and executed, provided the same shall be served or executed by the usual officer of the law in such courts, or by a messenger at arms in presence of one person, who shall witness such service or execution, and both of whom shall attest the service or execution of the same by their subscriptions in common form.

42. Citation of Parties, Witnesses and Havers, not residing in Sheriffdom, regulated.

AND whereas it is expedient to authorize Citation to Sheriff Courts of persons in Scotland, without the necessity of having recourse to Letters of Supplement from the Court of Session; BE it Enacted, That it shall be competent to cite all persons within Scotland as parties in any Civil or Criminal Action or Proceeding in any Sheriff Court, who may be amenable to the jurisdiction of such Court in respect of such Action or Proceeding, by the Warrant of such Sheriff Court; and it shall also be competent to cite Witnesses and Havers within Scotland in any Civil or Criminal Action or Proceeding in any such Courts, by the Warrant of such Courts; and all such Warrants shall have the same force and effect in any other Sheriffdom as in that in which they were originally issued, the same being first indorsed by the Sheriff-Clerk of such other Sheriffdom, who is hereby required to indorse the same on payment of the fee of *One Shilling*; and such Citation duly made shall be deemed and held to be due and regular Citation; and if any Witness or Haver duly cited shall fail to appear, it shall be competent to any party for whom such Witness or Haver is cited, to apply for a new Warrant to compel his attendance at such Court, at such reasonable time as may be fixed, which Warrant shall require such Witness or Haver to attend as aforesaid, under a penalty not exceeding *Forty Shillings*, unless a reasonable excuse be offered and sustained; and every such penalty shall be paid to the party applying for the new Warrant as aforesaid, and shall be recovered in the same manner as penalties under the before-recited Act, passed during the present Session, for the more effectual recovery of Small Debts in the Sheriff Courts, without prejudice always to Letters of Second Diligence for compelling Witnesses and Havers to attend, as at present competent:

And provided also, That nothing in this Act contained shall prevent or affect the competency of applying for and obtaining Letters of Supplement in common form, for the purpose of citing such Parties, Witnesses or Havers.

43.
Value of cases capable of being advocated for Jury Trial raised to 100*l.*

AND whereas it is provided and declared by an Act passed in the sixth year of the reign of his Majesty King GEORGE the Fourth, intituled, "An Act for the better regulating the Forms of Process in the Courts of Law in Scotland," that in all cases originating in the Inferior Courts, in which the claim is in amount above *Forty Pounds*, as soon as an order or interlocutor allowing a proof has been pronounced in the Inferior Courts, it shall be competent in manner therein provided to remove the process into the Court of Session by Bill of Advocation: AND whereas it is expedient to raise the value of the Causes thus removable into the Court of Session; BE it therefore Enacted, That it shall not be competent to remove any such Process into the Court of Session under the provisions of the said recited Act, unless the Claim shall be in amount above *One hundred Pounds*, and the form of advocation in such cases shall be in manner provided or to be provided in the case of advocations of final judgments of Sheriffs and other inferior Judges.

44.
Sheriffs' Juries to be summoned from List of Jurors residing within Ten Miles of Court to which they are summoned.

AND whereas it is expedient to remedy the inconvenience of summoning Jurors to attend in Sheriff Courts from distant parts of the county; BE it Enacted, That except in the counties of Edinburgh, Haddington and Linlithgow, it shall not be lawful to summon persons to attend at any Sheriff Court to serve as Jurors in any criminal cause, who shall reside at a greater distance than *Ten* Miles or thereby from the Court-house at which the Jurors shall be summoned to attend; and the Sheriff-Clerks of the several counties, except as aforesaid, shall annually make up and correct in manner provided by law Lists of Persons qualified to serve as Jurors resident within *Ten* Miles or thereby of each Court-house at which the Sheriff or his Substitute holds Courts, which Jurors are or may be summoned to attend: Provided always, That the attendance of Jurors at such Courts shall not exempt them from attendance at Circuit Courts of Justiciary in their ordinary course of rotation as heretofore: And provided also, That Keepers of Lighthouses and their Assistants shall not be liable to be summoned to serve as Jurors in any cause whatever, civil or criminal.

45.
Future Sheriff Clerks and others not to acquire vested right to Fees, or any claim to compensation in case of change.

AND whereas it is expedient that the office of Sheriff-Clerk should hereafter be better regulated, and that the whole fees paid in Sheriff Courts, both in civil and criminal proceedings, should be subject to such regulations as may be hereafter provided; BE it Enacted, That the salary or emoluments of every Sheriff-Clerk to be hereafter appointed shall be such as at the time of his appointment shall be fixed by the Lord High Treasurer of the United Kingdom of Great Britain and Ireland, or by the Commissioners of his Majesty's Treasury, or any *Three* of them, and shall be payable and paid out of the fees and emoluments in civil and criminal proceedings exigible, and received by such Sheriff-Clerks respectively; and any surplus of such fees and emoluments, after satisfying such salaries or emoluments respectively, shall be applied towards defraying the expenses attending the establishment of the Sheriff-Court and Sheriff Small Debt Circuit Courts within the county in which such fees and emoluments shall be collected, in such manner as the said Lord High Treasurer or Commissioners of His Majesty's Treasury, or any *Three* of them, shall direct; and no person who shall hereafter be appointed to the office of Sheriff-Clerk, and no person who shall be appointed to any office, or acquire right to any fees or emoluments in virtue of the provisions of this Act, from and after the *passing of the same*, shall acquire a vested right to the fees or emoluments of such office, or shall be entitled to prefer any claim to compensation in consequence of the subsequent abolition of such office or fees, or of any alteration in the constitution of such office, or in the amount of such fees, or in the mode of paying such Sheriff-Clerk or Officer, either by such fees or such salary as may hereafter be determined.

46.
Existing Sheriff-Clerks not to acquire vested right to increased Fees or claim to Compensation for being deprived of increase.

AND be it Enacted, That no existing Sheriff-Clerk shall acquire a vested right to any increased amount of fees or emoluments to be drawn by them from and after the *passing of this Act*, or shall be entitled to prefer any claim to compensation in consequence of being prevented from drawing or being deprived of such increased amount of fees or emoluments, or of any alteration, either in the mode of levying or disposing of the same.

47.
Court of Session to make Regulations for carrying Act into effect, and to amend Forms of Process.

AND whereas the present forms of proceedings in Sheriff Courts are established by Acts of Sederunt of the Court of Session passed under the direction and authority of Parliament, and certain alterations in the present forms of proceedings are made by this Act, and it is expedient to empower the said Court to carry into effect such alterations and and the purposes of this Act; BE it Enacted, That from and after the *passing of this Act*, the Court of Session shall be and they are hereby empowered and required by act or acts of Sederunt to make such orders and regulations as may be best calculated to carry into effect the purposes of this Act, and also to make further orders and regulations to amend and preserve uniformity in the forms of proceedings in Sheriff Courts, the said Court taking into consideration the Reports laid before Parliament by the Commissioners appointed under the Sign Manual of His Majesty, dated the Sixth day of June One thousand eight hundred and Thirty-three, and the Sixteenth day of August One thousand eight hundred and Thirty-four; and the said Court shall also adapt and apply to Sheriff Courts any alterations and amendments which may be made in the forms of proceedings in the Court of Session in so far as the same may be expedient; and the said Court may meet for the aforesaid purposes during vacation as well as during Session, and may alter and amend such regulations from time to time: Provided always, That within *Fourteen* Days from the commencement of every future Session of Parliament there shall be transmitted to both Houses of Parliament copies of all Acts of Sederunt made and passed under the powers herein given.

48.
Acts repealed at variance with this Act.

And be it Enacted, That all Laws, Statutes, Acts of Sederunt and Usages shall be, and the same are hereby repealed, in so far as they are inconsistent or at variance with the provisions of this Act: Provided always, That the same shall be in force in all other respects whatsoever.

49.
Meaning of words.

And be it Enacted, That in all cases in this or any other Act passed or to be passed affecting Scotland, the word "Sheriff" shall be held to include Sheriff-Depute and Stewart-Depute and Sheriff of any Burgh or Town, and their respective Substitutes; the words "Sheriff-Substitute" shall be held to include Stewart-Substitute; the words "Sheriff Court" shall be held to include and apply to the Court of the Sheriff or Stewart, or their Substitutes; the words "Sheriff-Clerk" shall be held to include Stewart-Clerk, and the Clerk of the Court of Sheriffs of Burghs or Towns, and their respective Deputies; the word "Officer" or "Sheriff Officer" to include Messenger at Arms; the word "County" shall be held to include Stewartry; the word "Sheriffdom" to include Burghs or Towns for which Sheriffs may be appointed; the word "Person" shall extend to a Partnership, or Body Politic, Corporate or Collegiate, as well as to an individual; and every word importing the singular number only, shall extend and be applied to several persons or things as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things; and every word importing the masculine gender only shall extend and be applied to a female as well as a male: Provided always, That those words and expressions occurring in this clause, to which more than one meaning is attached, shall not have the different meanings given to them by this clause in those cases in which there is any thing in the subject or context repugnant to such construction.

50.
Commencement of Act, and proviso as to abolition of Civil Jurisdiction of Burghs taking effect on existing Town Clerks ceasing to hold office.

And be it Enacted, That the whole provisions of this Act, unless where otherwise herein specially provided, shall commence and take effect from and after the *First* day of *October next after the passing of this Act*: Provided always, That the provisions of this Act with respect to the abolition of the civil jurisdictions, powers and authorities of the

Magistrates of Burghs and Towns as aforesaid, and the transference of the same to the Sheriffs, shall commence and take effect with respect to each Burgh and Town from and after the time when the existing Town Clerks of such Burghs or Towns shall cease to hold their present office by the tenure and under the conditions whereby such offices are at present held by them and not sooner; and the fact of their so ceasing to hold their present offices, when the same shall happen, shall be certified by the Magistrates and Council of such Burgh or Town to the Sheriff of the Sheriffdom, and shall be published in such manner as the Sheriff may direct.

51. Act may be amended.

And be it Enacted, That this Act may be repealed, altered or amended by an Act or Acts to be passed during the present Session of Parliament.

SCHEDULE

REFERRED TO IN THE FOREGOING ACT.

SCHEDULE (A.)

Unto the Honourable the Sheriff of

COMPLAINS That by an agreement [written or verbal, describing it,] between him and Defender, the Complainer let to the said Defender the use and occupation of that house [or, shop, subject or place, as the case may be,] for from and after the day of That the period of occupancy, according to the said agreement, expires on the [or, has expired, as the case may be]; Therefore the said Defender ought and should be decerned to remove from the said house [or, shop, subject or place, as the case may be] on the day of

at the day of the Clerk of Court grants warrant for citing the said Defender to compear before the said Sheriff or his Substitute in the at upon the day of next, to answer at the instance of the Complainer; and appoints a copy of the said Complaint to be served upon the Defender along with this Citation: Also grants warrant for citing Witnesses for both parties, to compear at the same place and date, to give evidence in the said matter.

Upon the day of I Officer [or, Messenger] of the said Court, cited the above-designed to compear as above directed, otherwise he should be held as confessed. This I did, by leaving a copy of the said Petition, with a short copy of Citation, within the said house [subject or place] in the hands of [or, by affixing the said copy on the of the said house, shop, subject or place, in consequence of my not being able to find any person in whose hands to leave the same].

At the day of years, the which day the Sheriff of found and hereby finds in favour of the within-designed [and ordains the said] Defender, to flitt and remove from said with all his family, servants, inmates, lodgers, sub-tenants and effects; and grants Warrant for execution of removing to pass herein in common form; or [assoilzies the said Defender from the within complaint]. Finds expenses et cetera, as the case may be.

Sheriff Courts (Scotland.)

A

B I L L

To regulate the Constitution, Jurisdiction and Forms of Process of Sheriff and Burgh Courts in Scotland.

(Prepared and brought in by
The Lord Advocate and Mr. Attorney General.)

Ordered, by The House of Commons, *to be Printed,*
21 *March* 1837.

137.

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A

B I L L

[AS AMENDED BY THE COMMITTEE]

To regulate the Constitution, Jurisdiction and Forms of Process of Sheriff Courts in *Scotland*.

[N. B.—*The Clauses marked* (A.), (B.), (C.) *and* (D.) *were added by the Committee.*]

WHEREAS the office of Sheriff and the Sheriff Courts in *Scotland* have been found to be of great utility, by affording in all ordinary cases a cheap and speedy administration of Justice: Preamble.

And whereas it is expedient to regulate the Constitution and enlarge the Jurisdiction of Sheriff Courts, and to amend the Forms of Proceedings therein:

1. So much of 20 Geo. 2, as requires residence of Sheriffs in their Counties, repealed.

BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT so much of an Act passed in the twentieth year of the reign of his Majesty King GEORGE the Second, for taking away and abolishing the heritable Jurisdictions in *Scotland*, and for certain other purposes, as enacts that every Sheriff-Depute and Stewart-Depute shall be and reside personally within his County, Shire or Stewartry, during the space of Four Months at least in the year, and also so much of the said Act as enacts a penalty upon being convicted of not so residing, shall be and the same is hereby Repealed; and that all Laws, Statutes, acts of Sederunt and Usages shall be and the same are hereby repealed, in so far as they are inconsistent or at variance with the provisions of this Act: Provided always, That the same shall be in force in all other respects whatsoever.

2.
Sheriff-Depute to hold Courts in his Sheriffdom, and to attend Court of Session.

Provided always, and be it further Enacted, That every Sheriff Depute shall attend personally within his Sheriffdom upon all necessary and proper occasions, and shall, unless prevented by indisposition, hold at least Four Ordinary Courts within his Sheriffdom for the exercise of his ordinary civil or criminal jurisdiction, during each Spring and Autumn Vacation of the Court of Session, except in the Sheriffdom of *Orkney* and *Zetland*, wherein the Sheriff-Depute shall hold at least Eight such Courts during each year, Four in *Orkney* and Four in *Zetland*, and each Sheriff shall, One Month previously, announce the periods of holding such Courts by a notice put up in the Sheriff Court Rooms; and every person who shall be hereafter appointed to the office of Sheriff-Depute shall be an Advocate of Three Years' standing at least, and shall have been, at the time of his appointment, in practice before and in habitual attendance upon the Court of Session; and after such appointment, every such Sheriff, with the exception of the Sheriffs of the Counties of *Edinburgh* and *Lanark*, shall be in habitual attendance upon the said Court of Session during the Sittings thereof; and if any such Sheriff, excepting as aforesaid, shall not hold Courts within his Sheriffdom, or shall not attend the Court of Session as before provided, it shall be competent for Her Majesty's Advocate to present a summary petition and complaint to the Court of Session, complaining of such Sheriff not holding Courts, or of such non-attendance, and the same being thereupon duly investigated and established upon a summary trial before the said Court, such Sheriff shall be admonished for the first offence, and for the second shall be deprived of his office.

3.
Sheriff-Substitutes not removable, except with consent of Lord President and Lord Justice Clerk.

And be it Enacted, That Sheriff-Substitutes, who shall have been or may be appointed with the approbation of the Lord President of the Court of Session in *Scotland*, and Lord Justice Clerk, according to the provisions of an Act passed in the sixth year of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act for the better Regulation of the Sheriff and Stewart and Burgh Courts of *Scotland*," shall not hereafter be removable from their offices by the present or any future Sheriff, unless with the consent of the Lord President and Lord Justice Clerk for the time being, expressed in writing to that effect.

4.
Sheriff-Substitutes to continue to hold office on the death of Deputes.

And be it Enacted, That on the death, resignation or removal of any Sheriff-Depute, his Substitute or Substitutes shall continue to hold his or their offices, and to exercise all the jurisdictions, powers or authorities thereto belonging, without the necessity of any new appointment or commission from the succeeding Sheriff: Provided always, That appeals may be taken in causes decided by such Sheriff-Substitute to the Sheriff to be appointed, which shall be laid before such Sheriff when he shall enter upon his office.

And

5. Sheriff-Substitutes to reside within their Sheriffdoms.

And be it Enacted, That every person holding the office of Sheriff-Substitute, and receiving salary on that account, shall reside personally within his jurisdiction, and shall not be absent therefrom more than Six Weeks in any year, nor for more than Two Weeks at any one time, nor so as to interfere with the regular sittings of his Court, without the special consent in writing of the Sheriff of such County for the time being, who shall be bound, in the event of his giving such consent, either to attend personally during the absence of such Substitute, or to appoint another duly qualified Substitute to act in his stead; and it shall not hereafter be lawful for any Sheriff-Substitute to act as Agent either in legal, banking or other business, or as Conveyancer, Factor or Chamberlain, except for the Crown, or to be appointed to any office, except such office as shall be by Statute attached to the office of Sheriff-Substitute.

6. Superannuation Allowances to Sheriff-Substitutes.

And be it Enacted, That Her Majesty and Her heirs and successors may grant an annuity, payable in like manner as salaries to Sheriff-Substitutes, to any person who has held, now holds or may hereafter hold the office of Sheriff-Substitute, according to the proportions and with reference to the amount of their salaries and the periods of their services as hereinafter mentioned, if from old age or any permanent infirmity such person has been or shall hereafter be disabled from the due exercise of his office: Provided that such annuity shall not exceed One-third of the salary payable to such person, in case the period of his service shall have been not less than Ten Years; and shall not exceed One-half of such salary, in case the period of service shall have been not less than Fifteen Years; and shall not exceed Three-fourths of such salary, in case the period of service shall have been not less than Twenty Years or upwards: Provided also, That no such annuity shall be granted, unless such Sheriff-Substitute shall have duly fulfilled the duties of his office during one of the periods before mentioned, and is from old age or permanent infirmity disabled from the due exercise of his office, which facts shall be certified by the Lord President, the Lord Justice Clerk, and the Lord Advocate for the time being, as having been established to their satisfaction by proper evidence.

7. Office of Sheriff-Substitute of Leith to cease.

And be it Enacted, That upon the death, resignation or removal of the present Sheriff-Substitute of *Leith*, the Sheriff of the County of *Edinburgh* for the time being shall appoint a Sheriff-Substitute, to whom shall be assigned the jurisdictions and duties presently belonging to the Sheriff-Substitute of *Leith*, as Sheriff-Substitute and Admiral-Depute, together with such further jurisdictions and duties within the said County as may be judged expedient by the said Sheriff-Depute.

8.
Summary Petition for removing from premises let for less than a year.

AND whereas it is expedient to diminish the expense and delay with which the process of warning and removing from houses and other heritable subjects let for a year or any shorter period in *Scotland* is attended; BE it Enacted, That where houses or other heritable subjects in *Scotland* are let for a year or any shorter period, it shall be competent for any person, authorized by law to pursue a removing therefrom, to present a Petition on induciæ of not less than Six free Days to the Sheriff of the territory, at any time before the expiration of the period for which the said premises are let, or before the expiration of any further period to which tacit relocation may have taken place, in the form or to the effect of Schedule (A.) annexed to this Act.

9.
Removing to be tried and determined summarily.

And be it Enacted, That the Sheriff, after service of such Petition on the defender personally, or at the premises as after provided, and after the induciæ are elapsed, shall try and determine the cause in a summary manner *vivâ voce*, after such examination of the witnesses or parties as may appear to him to be necessary, and if he shall see cause, decree shall be pronounced, ordaining the tenant or person in possession to remove; and the decree stating the amount of the expenses, if any found due to any party, shall be annexed to the Petition, and on the same paper with it, agreeably or to the effect of the form in the said Schedule (A.), which decree being signed by the Clerk, shall have the full effect of a decree of removing and warrant of ejection after the lapse of Three free Days from the date of the decree.

10.
Mode of serving Petition, if no person on the premises.

And be it Enacted, That if the Defender cannot be found personally, and if no person shall be found on the premises, a copy of the Petition and service thereof shall be attached to the door, or such other place as may be found most convenient on or adjoining to the premises, and, the same being reported to the Court, the Sheriff shall proceed to determine the cause in the same manner as if the notice had been served personally on the Defender.

11.
Warrant to cite Witnesses, and provision as to Fees.

And be it Enacted, That the Petition or copy thereof served on the Defender shall be a sufficient warrant to any Sheriff Officer to cite witnesses for either party to appear on the day of trial, and give evidence in such summary cases of warning and removal, and the fees allowed to the Clerk or Officers of Court on such petition and proceedings shall be the same as those allowed in similar cases by an Act passed in the tenth year of the reign of his late Majesty King GEORGE the Fourth, intituled, " An Act for the more effectual Recovery of Small Debts, and for diminishing the Expenses of Litigation in Causes of Small Amount in the Sheriff Courts in *Scotland*," or by any Act by which the said Act shall have been or may be repealed, altered or amended.

12.
Sheriff may remove cause to his ordinary Court.

And be it Enacted, That the Sheriff may, where the ends of justice or the convenience of parties require it, pronounce an order, adjourning and removing the further hearing of or procedure in any summary process of warning or removing raised under the authority of this Act to his Ordinary Court, and such cases shall thereafter be conducted, as nearly as may be, according to the forms in use in such Ordinary Court in processes of warning and removing.

13. Decree not subject to review, except under provisions of Small Debt Act.

And be it further Enacted, That no order or decree given by any Sheriff in any summary process of warning or removing, raised under the authority of this Act, unless the same shall have been adjourned and removed to the Ordinary Court, as hereinbefore provided, shall be subject to reduction, advocation, suspension or appeal, or any other form of Reviews or stay of execution, other than provided by the before recited Act passed during the tenth year of the reign of his late Majesty, or by any Act by which the same shall have been or may be repealed, altered or amended, either on account of any omission or irregularity or informality in the citation or proceedings, or on the merits or on any ground or reason whatever: Provided always, That appeal shall be competent against such order or decree, in the manner and under the conditions and provisions contained in such Act.

14. Members of College of Justice not exempt.

And be it Enacted, That no person shall be exempt from the Jurisdiction of the Sheriff in any process of warning or removing raised under the authority of this Act, on account of privilege, or being a member of the College of Justice or otherwise.

15. Sheriffs' Jurisdiction extended in Questions of Nuisance and Servitude.

And be it Enacted, That the jurisdiction, power and authority of Sheriffs of *Scotland* shall be and the same is hereby extended to all actions or proceedings relative to questions of nuisance or damages arising from the alleged undue exercise of the right of property, and also to questions touching either the constitution or the exercise of real or prædial servitudes.

16. Preparation of Records.

AND whereas it is expedient to prevent undue expense and delay in the preparation of Records and in the disposal of Causes in Sheriff Courts; BE it Enacted, That after lodging the summons and defences or other papers on each side by which a cause is originated, wherein it may be necessary to prepare a Record, the Sheriff shall examine into the relevancy and regularity of the proceedings, and the Record shall then be closed, if parties are ready so to do; but if not, the Sheriff, when the parties do not differ as to facts which appear to him to be material, shall allow replies to be given in and additions to be made to the defences, if this shall seem necessary, and then close the record: When the parties differ as to facts which appear to the Sheriff to be material, he shall, instead of allowing replies, appoint condescendence and answers to be given in, with pleas in law subjoined thereto, which, on cause shown, may be revised once, all additions or amendments on revisal being made upon the original papers; and no further revisal shall be allowed without the express authority of the Sheriff, on cause shown, who shall subscribe the Record when completed, and who is hereby required to award expenses against any party who may have caused undue expense or delay in the preparation of the Record: Provided always, That the Sheriff shall appoint a Motion Roll to be made up, and called each Court day, for the disposal, *vivâ voce*, of any incidental matter which may arise in the causes before him, previous notice of not less than Forty-eight Hours having been given through the Post-office or otherwise of the enrolment and purpose thereof.

17.
Sheriff to hear Parties on closed Records.

And be it Enacted, That after the Record shall be closed the Sheriff may hear parties *vivâ voce* on the merits of the cause, and in case of his doing so, he shall take a note of the arguments and authorities adduced, which shall form part of the process, and shall thereupon dispose of the cause.

18.
Proofs in Scotland to be taken by Sheriffs.

And be it Enacted, That in all causes in which a proof is ordered to be taken within *Scotland* in any Sheriff Court, such proof shall be taken by the Sheriff or Sheriff-Substitute before whose Court the cause may depend, or, if more convenient, by any Sheriff or Sheriff-Substitute of the County in which the proof may be ordered to be taken, to whom a remit shall be made for that purpose; except in taking the oaths or evidence of parties or witnesses or havers who may be unable to attend without manifest inconvenience, in which case a remit may be made to a Commissioner as heretofore; and in taking such proofs, the Sheriff or Commissioner shall have power to dispose of all incidental questions of law, or objections which may arise, and may seal up the evidence in the meantime, taking a note of the question or objection for after consideration and decision; and no Sheriff shall be entitled to any remuneration for taking such proofs in causes depending in the Courts of the County whereof he is Sheriff; but the parties in the cause shall defray his necessary expenses: Provided always, That it shall be competent to Sheriffs, with the consent of the parties, to have proofs taken in short-hand writing, both in causes in their own courts, and in consistorial or other causes, wherein both the questions and answers shall be taken down, and the evidence being written out, shall be certified by the short-hand writer, and subscribed and authenticated by the witness and the Sheriff in common form; and after a proof shall be taken, the Sheriff may hear parties *vivâ voce* thereon, if he shall see cause, and no reclaiming Petition shall be competent against the judgment of the Sheriff in any case.

19.
Transmission Book to be kept by Sheriff Clerks.

And be it Enacted, That the Sheriff-Clerk of every Sheriff Court shall keep a book, in which he shall enter, in a tabular form, in columns, every cause transmitted to the Sheriff or Sheriff-Substitute, in order to be advised, specifying, in separate columns, ordinary and summary causes, the Sheriff to whom the same has been transmitted, the date of such transmission, the date of the cause being received by the Sheriff and returned advised, and any remarks which the Sheriff may enter or direct to be entered in such book relative to any such cause; and an Inventory shall be kept, in which the borrowing and returning of processes shall be entered.

20. Suspensions in Sheriff Courts of Decrees in Absence by Sheriffs, and form of Suspension

And be it Enacted, That where decree in absence in any civil cause shall have been pronounced or extracted in any Sheriff Court, it shall be competent to apply to the Sheriff Court in which such decree was pronounced for suspension of the said decree, and on payment or consignation in the hands of the Clerk of Court of the expenses decerned for, the said Sheriff shall have power to suspend the said decree, and repone the Defender, and revive the action or proceeding in which such decree had been pronounced, as if decree had not been pronounced or extracted; and the form of such application shall be by lodging with the Clerk a Petition of Suspension, signed by an Agent in such Court, reciting the import and effect of the decree sought to be suspended, and setting forth in a prayer the relief or remedy craved; and on consignation as aforesaid, such Petition shall be received and marked by the Clerk, and forthwith laid before the Sheriff or his Substitute, who shall thereupon repone the Defender, and pronounce such order for intimation to and appearance to be made by the opposite party as may be just; and such order may be made and carried into execution against any person in any other county as well as in the county where such order is issued by producing such order to the Sheriff-Clerk of such other county and obtaining his indorsation thereon, and he is hereby required to make and date such indorsation upon payment of a fee of One Shilling; and such order being so made and carried into execution, by serving a copy of such Petition of Suspension and order thereon on the opposite party in common form, all further orders and interlocutors in the cause shall be sufficient and effectual.

21. Suspensions also competent in Sheriff Courts of charges for sums under 25 *l.*

And be it Enacted, That where a charge shall be given on a Decree of Registration proceeding on a bond, bill, contract, or other form of obligation, registered in any Sheriff Court Books, or in the Books of Council and Session, or any others competent, for payment of any sum of money not exceeding the sum of Twenty-five Pounds of principal, exclusive of interest and expenses, it shall be competent for any person so charged to apply in manner foresaid to the Sheriff Court of his domicile for suspension of the said charge, on caution or consignation; and on sufficient caution being found a consignation made in the hands of the Clerk of Court of the sum charged for and interest and expenses to be incurred before the Sheriff, the said Court shall have power to suspend the said charge, and to order intimation of the Petition of Suspension, and answers to be given in thereto, and thereafter to proceed with the further disposal and decision of the cause in like manner

ner as in summary causes in such Court: Provided that the said order for intimation and answers as aforesaid may be made and carried into execution against any person in any other county, as well as in the county where such order is issued in manner and to the effect hereinbefore provided.

22.
Sheriff's Judgment repelling preliminary objection to competency of suspension final.

And be it Enacted, That if any Petition of Suspension as aforesaid shall be presented in any Sheriff Court, and a preliminary objection be made to the competency of such Petition, or to the competency or regularity of the intimation thereof, and the same shall be repelled by the Sheriff-Substitute, an appeal may be taken in common form to the Sheriff, whose judgment shall not be liable to advocation to the Court of Session, in case of his adhering to the Interlocutor of the Sheriff-Substitute repelling the objection as aforesaid.

23.
Reclaiming note to Lord Ordinary in Bill Chamber against Sheriff's judgment refusing suspension.

And be it Enacted, That if any Petition of Suspension as aforesaid shall be refused by any Sheriff Court, it shall be competent to the Petitioner within Ten Days from the date of such Judgment, or in case of the Judgment being pronounced in the Sheriff Court of *Orkney* within Twenty Days, or in the Sheriff Court of *Zetland* within Thirty Days from the date of such Judgment, to lodge a written reclaiming note in the Bill Chamber, signed by an agent in the Court of Session, having prefixed thereto the Interlocutor or Interlocutors complained of, and setting forth the relief or remedy prayed for; and such reclaiming note shall be received and marked by the Clerk in the Bill Chamber, and shall be forthwith laid before the Lord Ordinary on the Bills, who shall pronounce such interim order thereon as shall be just, and the Petitioner shall find additional caution for any expenses which may have been found due in the Sheriff Court, and also for such expenses as may be found due in the Court of Session: and a copy of the said note and of such order thereon shall be delivered within Six Days, or in the case of the Judgment being pronounced in the Sheriff Court of *Orkney* within Ten Days, or in the Sheriff Court of *Zetland* within Twenty Days after the said periods, to the Respondent or his known Agent; and a copy thereof, duly certified by the said Clerk shall be a sufficient warrant to the Sheriff-Clerk forthwith to transmit to the said Clerk the whole proceedings in the said process.

24.
Disposal of the cause by Lord Ordinary or Inner House.

And be it Enacted, That it shall be competent to the said Lord Ordinary to proceed with the disposal of such cause summarily, and on considering the process in the Inferior Court, and hearing counsel or agents thereon, if he shall see cause, he shall either grant or refuse such Petition of Suspension, or remit the cause to the Sheriff Court with such instructions as to him shall seem just; and it shall be competent to bring the judgment of the said Lord Ordinary under the review of the Inner House of the Court of Session by a printed reclaiming note in common form, reciting the Interlocutors complained of, and setting forth in a prayer the relief or remedy craved, and the said Inner House shall, upon hearing parties, proceed to dispose of the cause in a summary way, as shall seem to them to be just.

25.
Sheriff's Jurisdiction in maritime causes, under 1 Will. 4, c. 69, explained.

AND whereas by an Act passed in the first year of the reign of his late Majesty, King WILLIAM the Fourth, intituled, "An Act for uniting the benefits of Jury Trial in Civil Causes with the ordinary Jurisdiction of the Court of Session, and for making certain other Alterations and Reductions in the Judicial Establishments of *Scotland*," it is enacted, that the Sheriffs of *Scotland* shall within their respective Sheriffdoms, including the navigable rivers, ports, harbours, creeks, shores and anchoring grounds in or adjoining such Sheriffdoms, hold and exercise original Jurisdiction in all maritime causes and proceedings, civil and criminal, including such as may apply to persons residing furth of *Scotland*, of the same nature as that heretofore held and exercised by the High Court of Admiralty: AND whereas doubts have arisen regarding the extent of such jurisdiction, and it is expedient that such doubts should be removed; BE it therefore Enacted and Declared, That the said recited Act shall be construed and held to mean that the powers and jurisdictions formerly competent to the High Court of Admiratly of *Scotland* in all maritime causes and proceedings, civil and criminal, shall be competent to the said Sheriffs and their Substitutes, provided the Defender shall, upon any legal ground of jurisdiction, be amenable to the jurisdiction of the Sheriff before whom such cause or proceeding may be raised.

26.
Caution judicatum solvi not required in maritime causes in Sheriff Courts.

And be it Enacted, That in maritime causes or proceedings raised or brought before any Sheriff Court in *Scotland*, caution *judicatum solvi* shall not be required in any such cause or proceeding from any party who shall be domiciled in *Scotland*, any law or practice to the contrary notwithstanding, unless the Judge shall require it on special grounds to be stated in the Interlocutor requiring the same, or a note annexed thereto.

27.
Citation Sheriff Courts in presence of One Witness sufficient.

And be it Enacted, That summonses, petitions and other proceedings in Sheriff Courts shall be deemed to be duly served and executed, provided the same shall be served or executed by the usual officer of the law in such courts, in presence of one person, who shall witness such service or execution, and both of whom shall attest the service or execution of the same by their subscriptions in common form.

28.
Citation of Parties, Witnesses and Havers, not

AND whereas it is expedient to authorize Citation to Sheriff Courts of persons in *Scotland*, without the necessity of having recourse to residing in Sheriffdom, regulated.

Letters of Supplement from the Court of Session; BE it Enacted, That it shall be competent to cite all persons within *Scotland* as parties in any Civil or Criminal Action or Proceeding in any Sheriff Court, who may be amenable to the jurisdiction of such Court in respect of such Action or Proceeding, by the Warrant of such Sheriff Court; and it shall also be competent to cite Witnesses and Havers within *Scotland* in any Civil or Criminal Action or Proceeding in any such Courts, by the Warrant of such Courts; and all such Warrants shall have the same force and effect in any other Sheriffdom as in that in which they were originally issued, the same being first indorsed by the Sheriff-Clerk of such other Sheriffdom, who is hereby required to make and date such Indorsation on payment of the fee of One Shilling; and such Citation duly made shall be deemed and held to be due and regular Citation; and if any Witness or Haver duly cited shall fail to appear, it shall be competent to any party for whom such Witness or Haver is cited, to apply for a new Warrant to compel his attendance at such Court, at such reasonable time as may be fixed, which Warrant shall require such Witness or Haver to attend as aforesaid, under a penalty not exceeding Forty Shillings, unless a reasonable excuse be offered and sustained; and every such penalty shall be paid to the party applying for the new Warrant as aforesaid, and shall be recovered in the same manner as penalties under the before-recited Act, for the more effectual recovery of Small Debts in the Sheriff Courts, or under any Act by which the same shall have been or may be repealed, altered or amended, without prejudice always to Letters of Second Diligence or compelling Witnesses and Havers to attend, as at present competent; and it shall be competent to execute and carry into effect such letters of second diligence in any other Sheriffdom, the same being indorsed by the Sheriff-Clerk of that Sheriffdom as before provided: And provided also, That nothing in this Act contained shall prevent or affect the competency of applying for and obtaining Letters of Supplement in common form, for the purpose of citing such Parties, Witnesses or Havers.

29.
CLAUSE (A.)
Sheriffs' criminal Warrants may be executed out of the County.

And be it Enacted, That any criminal Warrant granted by any Sheriff against any person charged with having committed a crime or offence within the jurisdiction of the said Sheriff, shall be sufficient for the apprehension of the said person within any other county where it is granted, and for conveying and disposing of the said person in terms of the Warrant, without the necessity of its being backed or indorsed by any other Magistrate: Provided always, That the said Warrant may be executed against the person mentioned therein, either by any Messenger at Arms or by a Sheriff Officer of the court of the Sheriff by whom such Warrant shall have been granted.

30.
CLAUSE (B.)
Sheriff of two Counties may

AND whereas by an Act passed in the fourth year of the reign of his Majesty King GEORGE the Fourth, intituled, " An Act for the Regulation hold Commissary Court in either.

ation of the Court of the Commissaries of *Edinburgh*, and for altering and regulating the Jurisdiction of inferior Commissaries in *Scotland*, it is provided that where two counties shall be under the jurisdiction of one Sheriff, such two counties shall constitute one Commissariat; BE it Enacted and Declared, That when two counties shall be under the jurisdiction of one Sheriff, as aforesaid, it shall nevertheless be lawful for such Sheriff, if he shall think proper, to hold Commissary Courts in both of such counties, in manner and to the effect provided by the said recited Act.

31.
Sheriffs' Juries to be summoned from List of Jurors residing within Twelve Miles of Court to which they are summoned.

AND whereas it is expedient to remedy the inconvenience of summoning Jurors to attend in Sheriff Courts from distant parts of the county; BE it Enacted, That except in the counties of *Haddington*, *Linlithgow*, *Peebles*, *Selkirk*, *Kinross*, *Clackmanan*, *Nairn* and *Cromarty*, it shall no longer be necessary to summon persons to attend at any Sheriff Court to serve as Jurors in any criminal cause, who shall reside at a greater distance than Twelve Miles or thereby from the Court-house at which the Jurors shall be summoned to attend; and the Sheriff-Clerks of the several counties, except as aforesaid, shall annually make up and correct in manner provided by law Lists of Persons qualified to serve as Jurors resident within Twelve Miles or thereby of each Court-house at which the Sheriff or his Substitute holds Courts, which Jurors are or may be summoned to attend: Provided always, That in *Orkney* and *Zetland* the jurors shall be summoned from the main land of each district respectively, and that the attendance of Jurors at Sheriff Courts shall not exempt them from attendance at Circuit Courts of Justiciary in their ordinary course of rotation as heretofore: And provided also, That Keepers of Lighthouses and their Assistants shall not be liable to be summoned to serve as Jurors in any cause whatever, civil or criminal.

32.
Emoluments of future Sheriff Clerks to be regulated.

AND whereas it is expedient that the office of Sheriff-Clerk should be regulated, and that a uniform rate of fees should be established in the several Sheriff Courts in *Scotland*; BE it Enacted, That the Table of Fees contained in Schedule (B.) hereto annexed, and to be contained in any additional table which may be framed in terms hereof, and no others, shall be exacted and received by all Sheriff-Clerks to be hereafter appointed, subject to such addition thereto or alteration thereof as may be made by the Lord High Treasurer of the United Kingdom of *Great Britain* and *Ireland*, or by the Commissioners of Her Majesty's Treasury, or any Three of them, a copy of such alteration being always notified Two Months in the *Edinburgh* Gazette before being made, and being also laid before both Houses of Parliament within One Month after the making thereof, or if Parliament shall not be then sitting, within Fourteen Days after the next meeting thereof; and the said Lord High Treasurer or Commissioners shall fix the salary which any future Sheriff-Clerk shall receive, and which shall be payable and paid by or out of the fees and emoluments in civil and criminal proceedings exigible, and received by such Sheriff-Clerks respectively; and any surplus of such fees and emoluments, after satisfying such salaries, shall be applied towards defraying the expenses attending the establishment of the Sheriff Court and Sheriff Small Debt Circuit Courts within the county in which such fees and emoluments shall be collected, in such manner, and subject to such regulations for ascertaining the amount of such surplus and accounting for the same, as the said Lord High Treasurer or Commissioners, or any Three of them, shall direct; and where in any of the smaller counties the fees and emoluments which shall hereafter be received under the provisions of this Act may be insufficient for the maintenance of a person duly qualified to execute the duties of a Sheriff-Clerk, it shall be lawful to the said Lord High Commissioner or Commissioners, or any Three of them, to direct that a salary shall be payable to such Sheriff-Clerk, in addition to the said fees, of such amount as they shall think necessary; and no person who shall hereafter be appointed to the office of Sheriff-Clerk, or to any office in any Sheriff-Court, or who shall acquire right to any fees or emoluments in virtue of the provisions of this Act, from and after the passing of the same, shall acquire a vested right to the fees or emoluments of such office, or shall be entitled to any compensation in consequence of the subsequent abolition of such office or fees, or of any alteration in the constitution of such office, or in the amount of such fees, or in the mode of paying such Sheriff-Clerk or Officer, either by such fees or such salary as may hereafter be determined: Provided always, That it shall be lawful for the said Commissioners, or any Three of them, by agreement with any existing Sheriff-Clerk, to establish the Table of Fees hereby fixed or to be fixed under the authority of this Act in any Sheriff Courts, and to award to such Sheriff-Clerk such compensation by way of additional salary as they may think fit; and all such salaries to Sheriff-Clerks shall be payable out of the funds from which the salaries of Sheriffs are payable: Provided always, That every Sheriff-Clerk shall keep an account stating in columns the amount of the different Fees drawn by such Clerk under this Act, and the sources thereof, and shall annually, at the beginning of each year, render such account to the Court of Session.

33.
Existing Sheriff-Clerk and Officers not to acquire vested right to increased Fees.

And be it Enacted, That no existing Sheriff-Clerk, or other officer of any Sheriff Court, shall acquire a vested right to any increased amount of fees or emoluments which may be drawn by them from and after the passing of this Act, or shall be entitled to prefer any claim to compensation in consequence of being prevented from drawing or being deprived of such increased amount of fees or emoluments, or of any alteration, either in the mode of levying or disposing of the same.

34.
Court of Session to make Regulations for carrying Act into effect, and amend Forms of Process.

And be it Enacted, That from and after the passing of this Act, the Court of Session shall be and they are hereby empowered and required by act or acts of Sederunt to make such orders and regulations as may be best calculated to carry into effect the purposes of this Act, and also of an Act passed during the last Session of Parliament, intituled, "An Act for regulating the Process of *Cessio Bonorum* in the Court of Session, and for extending the Jurisdiction of Sheriffs in *Scotland* to such Causes;" and also, if necessary, to alter or amend the Table of Fees for Practitioners in Sheriff Courts, and adapt the same to the forms or process herein provided; and also from time to time to make further orders and regulations to amend the forms and preserve uniformity in the proceedings in all Sheriff Courts, the said Court taking into consideration the Reports laid before Parliament by the Commissioners appointed under the Sign Manual of his late Majesty King WILLIAM the Fourth, dated the Sixth day of June One thousand eight hundred and Thirty-three, and the Sixteenth day of August One thousand eight hundred and Thirty-four; and the said Court shall also by act or acts of Sederunt from time to time adapt and apply to Sheriff Courts any alterations and amendments which may be made in the forms of proceedings in the Court of Session, so as to make them uniform in as far as it may be expedient so to do; and the said Court may meet for the aforesaid purposes during vacation as well as during Session, and may alter and amend such regulations from time to time: Provided always, That printed drafts of acts of Sederunt proposed to be passed under the powers given by this Act shall be published on the walls of Court during Session, and on the walls of the Bill Chamber during vacation, for not less than Three Weeks before the same shall be passed; and provided also, That within Fourteen Days from the commencement of every future Session of Parliament, there shall be transmitted to both Houses of Parliament copies of all acts of Sederunt made and passed under the powers given by this Act.

35.
CLAUSE (C.)
Sheriffs to meet periodically and to submit propositions to the Court.

And be it Enacted, That in order the better to carry into effect the purposes of the said recited Act and of this Act, and to preserve uniformity in the proceedings of Sheriff Courts, the several Sheriffs of the several Sheriffdoms shall be and they are hereby required to meet together in *Edinburgh* in the First Week of the First winter Session of the said Court after the passing of this Act, and at the like period every Years thereafter, and adjourn such meetings from time to time as they shall see cause, and at such meetings they shall consider how far uniformity of proceedings exists in Sheriff Courts, and any propositions which may be laid before them, or which they may deem proper to submit to the said Court for attaining that object; and on or before the First day of January next ensuing, after each such meeting, the said Sheriffs shall submit to the Court any regulations which they may propose should be enacted by Act of Sederunt, and the same shall be printed and sent to the different Sheriff Courts, to be exhibited there for the space of Days, and the said Sheriffs shall on or before the Twelfth day of March next ensuing, prepare and cause to be printed for the consideration of the Court a revised draft; and on the meeting of the Court in the Summer Session next ensuing, the Court shall take such draft into consideration, and pass an Act of Sederunt on or before the Twelfth day of July following, in such terms as they shall think fit: Provided always, That nothing herein contained shall prevent the said Sheriffs from meeting for the purposes aforesaid, and submitting propositions as aforesaid to the said Court at any other times, or the said Court from passing any Act or Acts of Sederunt under the powers hereinbefore given at any other times, as such Sheriffs or such Court respectively shall think proper.

36. Civil Jurisdiction of Burgh Courts abolished, and transferred to Sheriffs or local Judges, except Edinburgh and Glasgow.

And be it Enacted, That the civil jurisdictions, powers or authorities belonging to or exercised by the Courts of the Magistrates of Royal Burghs of *Scotland*, except in the Cities of *Edinburgh* and *Glasgow*, which shall retain their present jurisdiction until otherwise provided by any Act which may be passed in the present or any future Session of Parliament, or by the Courts of the Magistrates of Burghs of Regality, or Burghs of Barony in *Scotland*, or the Courts of the Magistrates of Burghs or Towns in *Scotland*, not being Royal Burghs, entitled to return, or to contribute in returning Members to serve in Parliament, and to which Burghs and Towns the right of electing Magistrates, with certain powers and jurisdictions was conferred by an Act of the third and fourth year of the reign of his late Majesty, intituled, " An Act to provide for the Appointment and Election of Magistrates and Councillors of the several Burghs and Towns in *Scotland*, which now return or contribute to return Members to Parliament, and are not Royal Burghs," or by any Magistrate or Magistrates of such Burghs or Towns sitting in judgment, or by any Dean of Guild, or Dean of Guild Court of such Burghs or Towns, except in the Cities of *Edinburgh* and *Glasgow* as aforesaid, shall from and after the periods hereinafter provided cease and determine, and the same are hereby after the said periods dissolved and extinguished; provided that the Magistrates of such Burghs and Towns shall retain such power of taking affidavits or declarations, and of performing such other ministerial acts of civil jurisdiction as they have hitherto possessed and may competently exercise, including cognition and other steps necessary or usual in the course of completing Titles in Burgage Holdings; and provided also, That this Act shall not affect the civil jurisdictions, powers or authorities belonging to such Magistrates as Justices of the Peace; and the said whole civil jurisdictions, powers or authorities hereby dissolved and extinguished, shall be and the same are hereby transferred to the several Sheriffs and Sheriff Courts of the counties in which such Burghs and Towns or parts thereof are respectively situated.

37. **Proceedings in dependence.**

And be it Enacted, That all civil actions and proceedings which may be depending before any Burgh Court at the time when the provisions of this Act, abolishing the Civil Jurisdiction of Burgh Courts as aforesaid, shall take effect, shall be transferred to the Court of the Sheriff wherein such action or proceeding might have originated, if this Act had taken effect previously to the commencement of such actions or proceedings, and the same shall thereupon be heard and determined in the same manner, as nearly as may be, as if they had been brought before such Sheriff in the first instance, and all previous proceedings and Interlocutors shall be held to have taken place and to have the same effect as if they had been pronounced in such Sheriff Court; and as soon as conveniently may be, the processes in all such depending actions or proceedings shall be transmitted accordingly to such Sheriff Court by the Town Clerk or Clerk of such Burgh Courts, together with an inventory made by the said Clerk, to the accuracy whereof he shall make a declaration, if required: Provided always, That if any doubt shall arise touching the transmission of any such process, it shall be competent to the Sheriff Clerk of the county wherein such doubt may arise, or to any of the parties, to apply to the Lord Ordinary on the Bills, who shall give directions thereupon, and whose directions shall be final; and the Sheriff-Clerks of the several counties of *Scotland* shall respectively act as Clerks in the Sheriff Courts in all such actions and proceedings so transferred as aforesaid to the Sheriff Courts, and all such Clerks shall be subject to the provisions and regulations in this Act contained relative to fees and emoluments: Provided also, That the Clerks of such Burgh Courts respectively shall continue to retain the custody of all other processes, records and warrants of decrees, and shall have power to give out extracts of the same in like manner and to the same effect as heretofore, or may transmit the same or any part thereof to such Sheriff Court as aforesaid in case such transmission should be required by the Sheriff.

38. **Agents in Burgh Courts to be Agents in Sheriff Courts.**

And be it Enacted, That it shall be lawful for every person now entitled to conduct as Agent any actions and proceedings before any of the said Burgh Courts, to practise as Agent before the respective Sheriff Courts to which the civil jurisdiction heretofore competent to such Burgh Court may be transferred by virtue of this Act, in all civil actions and proceedings which are or may be competently heard and determined in such Sheriff Court, and which arise within the territory of, and might have been competently brought before such Burgh Courts; such Agents being responsible to the Sheriff for malversation, in the same way as other Procurators before his Court.

39. Sheriffs may appoint Substitutes in Burghs for certain purposes in cases not opposed.

And be it Enacted, That each Sheriff-Depute shall be and each of them is hereby empowered, when he shall see cause, and without the certificate of the Lord President or Lord Justice Clerk, to appoint by a writing on unstamped paper under his hand, the Assessor, Town-Clerk or other fit and competent person, residing in any Burgh or Town in his Sheriffdom in which there shall be no resident Sheriff, although not qualified in terms of the before-recited Act of the sixth year of the reign of his late Majesty, to be his Substitute within such Burgh or Town during his pleasure, and for whom he shall be answerable, for the purpose and with the power of authorizing sequestrations and sales for rent, receiving and disposing of petitions for removing from heritable subjects let for less than a year in terms of this Act, granting warrants of ejection of tenants, deciding on the aliment of prisoners and their right of liberation under the Act commonly known as the Act of Grace, and under sick bills, and taking affidavits or declarations; and when such Burgh or Town is a sea port for granting warrants for surveying damaged cargoes or ships and for landing and warehousing, and, if necessary, for selling damaged cargoes: Provided, That if in any such case, the petition or application to such Substitute shall be opposed by the party against whom the same shall be made, the whole proceedings in such case shall be immediately removed and transferred from such Substitute to the Ordinary Court of such Sheriff for the district within which such Burgh or Town may be situated; and such Town-Clerk, or other person appointed Substitute as aforesaid, shall be paid by the usual fees upon such proceedings, subject to the conditions herein provided, and no further fees shall be payable to any Clerk of such Substitute.

40. CLAUSE (D.) Abolition of Civil Jurisdiction of Burghs to take effect on Town Clerks ceasing to take office.

Provided always, and be it Enacted, That the provisions of this Act whereby the civil jurisdictions, powers and authorities of the courts of Magistrates of Burghs and Towns are abolished and transferred to Sheriffs as aforesaid, shall commence and take effect with respect to each Burgh or Town, excepting the Cities of *Edinburgh* and *Glasgow*, as aforesaid, from and after the time when the existing Town Clerks or Clerks of the Courts of such Burghs or Towns shall cease to hold their several offices, or shall cease to hold such offices under the tenure and conditions whereby the same are at present held by them to the effect of taking away their claim to compensation, or when such Town Clerks or Clerks of Burgh Courts shall severally consent to such abolition and transference, and the fact of their ceasing to hold office or consenting as aforesaid when the same shall happen, shall be intimated by the Magistrates and Council of such Burgh to the Sheriff of the Sheriffdom, and shall be published in such manner as the Sheriff shall direct: Provided always, That no person who shall hereafter be appointed to any of the said offices shall be entitled to compensation in consequence of the operation or effect of this Act, or of any thing done in pursuance hereof.

41. Registration of Deeds in Burgh-Courts abolished.

And be it Enacted, That from and after the period when the provisions of this Act, abolishing civil jurisdictions, powers and authorities of Courts of burghs and towns shall commence and take effect with respect to the several burghs and towns as herein provided, the powers and privileges belonging to or exercised by the said several Courts of burgh and towns, of registering in their books deeds or instruments for the purpose of execution following thereon, shall cease and determine, and the same are hereby extinguished and abolished.

42. Meaning of words.

And be it Enacted, That in all cases in this Act, the word "Sheriff" shall be held to include Sheriff-Depute and Stewart-Depute and their respective Substitutes; the words "Sheriff-Substitute" shall be held to include Stewart-Substitute; the words "Sheriff Court" shall be held to include and apply to the Court of the Sheriff or Stewart, or their Substitutes; the words "Sheriff-Clerk" shall be held to include Stewart-Clerk, and their respective Deputies; the word "County" shall be held to include Stewartry; the word "Person" shall extend to a Partnership, or Body Politic, Corporate or Collegiate, as well as to an individual; and every word importing the singular number only, shall extend and be applied to several persons or things as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things; and every word importing the masculine gender only shall extend and be applied to a female as well as a male: Provided always, That those words and expressions occurring in this clause, to which more than one meaning is attached, shall not have the different meanings given to them by this clause in those cases in which there is any thing in the subject or context repugnant to such construction.

43. Commencement of Act.

And be it Enacted, That the whole provisions of this Act, unless where otherwise herein specially provided, shall commence and take effect from and after the Twelfth day of July One thousand eight hundred and Thirty-eight.

44. Act may be amended.

And be it Enacted, That this Act may be repealed, altered or amended by an Act or Acts to be passed during the present Session of Parliament.

SCHEDULES

Referred to in the foregoing ACT.

SCHEDULE (A.)

Unto the Honourable the Sheriff of

Complains That by an agreement [written or verbal, *describing it*,] between him and Defender, the Complainer let to the said Defender the use and occupation of that house [*or*, shop, subject or place, *as the case may be*,] for from and after the day of That the period of occupancy, according to the said agreement, expires on the [*or*, has expired, *as the case may be*]; Therefore the said Defender ought and should be decerned to remove from the said house [*or*, shop, subject or place, *as the case may be*] on the day of at the day of the Clerk of Court grants warrant for citing the said Defender to compear before the said Sheriff or his Substitute in the at upon the day of next, to answer at the instance of the Complainer; and appoints a copy of the said Complaint to be served upon the Defender along with this Citation: Also grants warrant for citing Witnesses for both parties, to compear at the same place and date, to give evidence in the said matter.

Upon the day of I Officer [*or*, Messenger] of the said Court, cited the above-designed to compear as above directed, otherwise he should be held as confessed. This I did, (personally, or by leaving a copy of the said Petition) with a short copy of Citation, within the said house [subject *or* place] in the hands of [*or*, by affixing the said copy on the of the said house, shop, subject or place, in consequence of my not being able to find any person in whose hands to leave the same, *as the case may be*.]

At the day of years, the which day the Sheriff of found and hereby finds in favour of the within-designed [and ordains the said] Defender, to flitt and remove from said with all his family, servants, inmates, lodgers, sub-tenants and effects; and grants Warrant for execution of removing and ejection to pass herein in common form; [*or* assoilzies the said Defender from the within complaint]. Finds expenses et cetera, *as the case may be.*

SCHEDULE (B.)

TABLE of FEES in Civil Business for the SHERIFF-CLERKS of *Scotland.*

	In Cases of £. 12, and under.			Above £. 12.		
	£.	s.	d.	£.	s.	d.
Libel, summons, or claim to found an action	–	–	9	–	1	3
When more defenders than one are sued for a separate debt or prestation, the above fees to be paid on one of the debts or prestations highest in amount, and a third of the above fees to be paid for each of the other debts or prestations, according to the amount of the claim against each defender or set of defenders.						
Certifying copy of libel, in terms of Act of Sederunt for sheriff courts, c. 18, s. 4	–	–	3		–	3
Summary petition or complaint (except petition of sequestration), and deliverance thereon	–	1	–	–	1	6
Defence, answer, or first paper for each defender or set of defenders, or compearer or set of compearers in any action	–	–	6	–	1	–
Each paper or pleading, for either party, subsequent to the first step, including objections and answers in a proof when stated in separate papers	–	–	3	–	–	6
Appeal to the sheriff-depute	–	–	3	–	–	6
Receiving and marking each set of productions, except the productions lodged with the first paper for each party, for which no charge is to be made	–	–	3	–	–	3
Extracting each decreet in absence, in the abridged form	–	1	–	–	1	6
When a decreet is extracted against more defenders than one, sued for a separate debt or prestation, the above fee of extract to be paid on one of the debts or prestations highest in amount, and a third of the above fee for extract to be paid on each of the others, according to the amount of the claim against such defender or set of defenders.						
Extracting each decree *in foro* in the abridged form	–	2	–	–	2	6
If the decree, whether in absence or *in foro*, shall exceed one sheet, for writing each succeeding sheet	–	–	6	–	–	6
Recording abridged decreets, per sheet	–	–	6	–	–	6
Protestations for not insisting	–	–	6	–	–	9
Extract thereof	–	–	6	–	–	9
Acts and commissions, first sheet	–	–	6	–	–	9
Subsequent sheets, each	–	–	6	–	–	6
If the proof be taken on the interlocutor allowing it, without extracting an act and commission, there will be paid by each party leading proof	–	–	6	–	–	9
Diligence or precept for citing parties incidentally, witnesses or havers	–	–	6	–	–	9
Second diligence	–	–	6	–	–	9
Each deposition or declaration	–	–	6	–	–	9
Writing each sheet thereof, after the first, when the sheriff-clerk acts as writing clerk	–	–	6	–	–	6
The sheriff-clerk, or his depute, when acting as commissioner in taking a proof, deposition of party or declaration, will be allowed the following fees; viz.						
In causes not exceeding 8 *l.*, each hour	–	1	3			
Above 8 *l.* and not exceeding 25 *l.*, each hour	–	2	–			

	In Cases of £. 12 or under.			Above £. 12.		
	£.	s.	d.	£.	s.	d.
Above 25 *l.*, each hour	–	2	6			
As also his clerk's fee for writing, at the rate of 4 *d.* per sheet.						
Sequestration of a tenant's effects, or of joint tenants in one possession; viz.						
Warrant of sequestration, and service	–	1	3	–	1	6
Taking the inventory, when taken by the clerk, if the rent to be secured be 12 *l.* or under:						
Clerk and witnesses	–	2	6			
When the rent is above 12 *l.* and does not exceed 25 *l.*						
Clerk and witnesses	-	-	-	–	3	9
When the rent is above 25 *l.* and does not exceed 50 *l.*						
Clerk and witnesses	-	-	-	–	5	–
When the rent is above 50 *l.*						
Clerk and witnesses	-	-	-	–	6	3
Writing out inventory and schedule, per sheet of each, in any of the above cases	-	-	-	–	–	6
If the clerk and witnesses are necessarily employed more than two hours in taking the inventory, or travelling for that purpose, he will be allowed, in addition to the above fees, for every hour after the first two,						
Clerk and witnesses	–	–	9	–	–	9
But under these charges, for the hours after the first two, the clerk not to have in one day for himself and witnesses, more than 5 *s.*						
Warrant of sale	–	–	6	–	1	–
Extract thereof, per sheet, when required	–	–	6	–	1	–
Intimating sale to tax-office	–	–	6	–	–	6
The clerk, when he executes any warrant to roup, and collects the proceeds, will be held liable for the amount of the roup-roll, and will be allowed for his trouble and risk, including auctioneer's fees, as follows:						
When the amount of the roup-roll is 8 *l.* or under, he will be allowed 3 *s.* 9 *d.*						
When the amount of the roup-roll is above 8 *l.* and does not exceed 100 *l.*, he will be allowed at the rate of 2½ per cent.						
When the amount of the roup-roll exceeds 100 *l.* but does not exceed 1,000 *l.*, he will be allowed 2½ per cent. for the first 100 *l.*, and for every additional 100 *l.* or part of 100 *l.* 1½ per cent. And when the amount exceeds 1,000 *l.*, he will be allowed the above rates for the first 1,000 *l.* and one per cent. for each additional 100 *l.* and part of 100 *l.*						
The above poundage to cover all charges for trouble in relation to the sale, and for collecting the proceeds, drawing advertisements and articles of roup, but the clerk will be allowed all his necessary disbursements or expenses, such as advertising, paying crier, travelling charges, &c. He will also, when the proceeds are above 20 *l.*, be allowed 3 *s.* 9 *d.* for an assistant clerk.						
If roup be stopped, after time of sale is fixed	–	1	3	–	1	3
Receiving the report of sale, and note of the sum arising from it, and marking the same	–	–	6	–	1	–
Allowing inspection of the same	–	–	6	–	–	6
In sales under other warrants of the sheriff, including poindings, the same fees to be paid as in sales under sequestrations.						

	In Cases of £. 12 and under.			Above £. 12.		
	£.	s.	d.	£.	s.	d.
At intimating caption to compel return of a process, including dues of caption, if issued	–	–	6	–	–	6
Enrolling a cause, to be paid by the party requiring enrolment	–	–	3	–	–	3
When any cause at avizandum is enrolled by order of the sheriff, the above fee to be paid by the parties equally.						
At borrowing a process, or part of a process, the clerk being for this fee bound to compare the process, both when borrowed and returned, and to mark the return	–	–	3	–	–	3
Attending at judicial inspections or visitations, when required by the sheriff or either of the parties, sealing up repositories, or executing any other order or warrant of the sheriff, not otherwise provided for in this Table:						
First hour employed	–	2	–	–	2	6
Every other	–	1	3	–	2	–
Besides necessary outlays.						
Auditing accounts of expenses when remit made to the clerk:						
In decrees in absence	–	–	6	–	–	6
In litigated cases when the amount of the account rendered is under 5*l.*	–	1	9	–	1	9
When 5*l.* and under 10*l.*	–	2	6	–	2	6
When 10*l.* and under 20*l.*	–	3	6	–	3	6
When 20*l.* and under 40*l.*	–	5	–	–	5	–
When 40*l.* and under 60*l.*	–	6	–	–	6	–
When 60*l.* and under 80*l.*	–	7	6	–	7	6
When 80*l.* and upwards	–	10	6	–	10	6
Caveat	–	–	6	–	–	6
Precepts or warrants of arrestment, when contained in the summons	–	–	3	–	–	3
When not contained in the summons	–	–	9	–	1	–
At loosing an arrestment in either case	–	–	9	–	1	–
Each bond of caution and relative certificate	–	2	6	–	3	9
Edict or summons of curatory, or for giving up inventories	–	1	3	–	1	3
Calling in court, receiving, and entering the nomination of curators	–	2	6	–	2	6
Doqueting and signing tutorial or curatorial inventories, per sheet of each duplicate	–	–	3	–	–	3
Extract acts of curatory, or upon production of inventories:						
First sheet	–	2	6	–	2	6
Every other sheet	–	1	3	–	1	3
Second extracts, per sheet	–	1	3	–	1	3
Production of a bill of advocation, and marking the same, including trouble of transmitting the process when necessary	–	–	–	–	2	6
Transmitting extracted processes, in consequence of a warrant from the Court of Session or the sheriff	–	–	9	–	1	3
Appeal against a decree or sentence of the sheriff to the Court of Justiciary or Circuit Court, or answers thereto	–	1	–	–	1	3
Searching for a process in which no procedure has taken place for a year, if search does not exceed five years, and no extract ordered	–	–	6	–	1	–
Each additional year, after the first five, in which the search is made	–	–	3	–	–	3
For each consignation of money in the clerk's hands, if under 10*l.*	–	1	3	–	1	3
And an additional fee for the amount above 10*l.*, at the rate of 5*s.* on each 100*l.* consigned.						

	In Cases of £.12 and under			Above £.12.		
	£.	s.	d.	£.	s.	d.
On the lodging of a bank receipt, when money ordered to be consigned is lodged in a bank, instead of being consigned	–	1	3	–	1	3
The fees in these three last articles not to be chargeable on proceeds of roups or sales conducted by the clerks.						
Each warrant to uplift consigned money	–	1	3	–	1	3
Full extract, or second extract, or authenticated copy of a process or part of a process, or other procedure or paper, when required by a party and furnished by the clerk, per sheet	–	–	6	–	–	9

Note.—In all cases where the conclusions are *ad factum præstandum,* or not entirely pecuniary, the highest class to be the rate of charge. But fees on papers in summonses of removal or rejection, to be charged according to the rent of the subject from which the defender is summoned to remove, or to be ejected.

	£.	s.	d.
Recording hornings, inhibitions, interdictions, lawburrows, with their executions, discharges and other writings recorded in the registers of hornings and inhibitions, per sheet	–	–	10
First or subsequent extracts thereof, when required, per sheet	–	–	9
Recording bonds, tacks, dispositions and other writings in the register of deeds and probative writs, per sheet	–	–	9
First extracts of such deeds or writings, when required, per sheet	–	–	6
Subsequent extracts, per sheet	–	–	9
Recording protests on bills, including extract	–	1	3
Subsequent extracts	–	–	9
Recording accounts, states, and the like, per sheet of figures	–	1	–
Extract thereof, per sheet	–	–	9
Inspection of records of entailed vouchers	–	–	3
Searching the record of hornings or inhibitions, including minute-book, each year or part of a year	–	–	3
In all not exceeding	–	3	9
Searching for deeds recorded for the first year, or part of the year specified	–	–	6
Every additional year	–	–	3
Certificate of search, if required	–	1	3
Inspection of records when a party or his agent makes the search, each record-book and corresponding minute-book	–	1	3
Examinations under the Bankrupt Act, when the sheriff-clerk acts as clerk to the examination, each diet	–	3	9
Writing declarations or oaths therein, per sheet	–	–	6
SERVICES:			
General Service:			
Procuring the brieve executed, and intimation to agent	–	1	9
Attending in court at service, framing and recording the minutes, and instrument money	–	3	6
Fees of the Service	–	10	–
Engrossing the retour	–	2	6
Special Service, or Service as Heir of Provision:			
Procuring the brieve executed, and intimation to agent	–	1	9
Attending in court at service, framing the minutes, and recording, first sheet	–	3	–
Each other	–	1	–
Framing the retour, first sheet	–	7	6
Each other sheet	–	5	–
Engrossing the retour, each sheet	–	1	–
Extracts from the record of service, when required, each sheet	–	1	–

Infeftments:

		£.	s.	d.
Drawing instrument of sasine on Chancery precepts, first sheet	250 words per sheet.	–	7	6
Each subsequent sheet		–	5	–
Extending the same, first sheet		–	1	6
Each subsequent sheet		–	1	–
Besides the stamped vellum or parchment.				
And that the clerk receive for taking infeftment thereon, when the rent of the property does not exceed 100*l.* per annum		–	10	6
100*l.* and not exceeding 200*l.*		1	1	–
200*l.* and not exceeding 500*l.*		1	11	6
500*l.* and not exceeding 1,000*l.*		2	2	–
And for every additional 1,000*l.*		–	10	6
But not to exceed in all		5	5	–
And if the distance exceed three miles, each additional mile, until it exceeds 10 miles		–	2	6
But under this charge not to receive more per day than		1	1	
Besides travelling charges.				
Extracts of Minutes of procedure of freeholder meetings, when required, per sheet		–	1	3
Each person taking the oaths to Government when the oaths are not administered at a county meeting		–	1	–
Certificate thereof, when required		–	1	6
Qualifying a peer to vote at an election		1	1	–
Extract of the fiars, each year		–	–	9
Receiving each precept from the Court of Session, making up list of jury, and instructing officer to summon, and making return		–	2	6
Receiving countermand of trial, and instructing officer		–	2	6
Writing and booking each necessary letter		–	1	3
Each duplicate and copy		–	–	6

Fees for Public Business, payable in Exchequer:

	£.	s.	d.
For the principal precept of intimation of election of a Member of Parliament, besides expense of printing	–	10	6
Writings relative to elections of Members of Parliament (exclusive of the precept), to summoning the Commissioners of Supply for laying on the land tax, and to other public business payable in the Exchequer, each sheet	–	1	–
When consisting of more than one sheet, each additional sheet		1	6
Superintending the execution of Chancery precepts, and returning the execution, for each precept	–	–	6
Superintending the publication of Royal proclamations or writs, each	–	5	–
Warrant to summon jury and witnesses for striking the fiars and making list, and instructing officer to summon them	–	10	6
Attendance at striking the fiars and writing the evidence and procedure, and recording the verdict	1	11	6
To the sheriff-clerk for instructing the persons employed in taking up the lists of jurors, receiving the returns and engrossing the lists in the jury-books, for each 100 names, exclusive of printing	–	5	–
To the district-clerk, or other person having local knowledge, for attending and assisting the sheriff at revising lists, at the rate of 21 *s.* per day, including travelling charges and postages.			

N. B.—The sheet of writings to be computed at 300 words when not otherwise specified; but if the writing does not contain 300 words, to be charged as one sheet; and if, after finding the sheet or sheets which any such writing shall comprise, calculated at the rate aforesaid, any number of words less than 300 words shall remain, such fewer words shall be charged as a sheet. Although the fees for recording hornings, inhibitions, deeds and other writings in the registers of hornings and inhibitions, and of deeds and probative writs, are to be paid for at certain rates for every sheet, yet it is understood that the clerks are to frame those records so as to contain in each sheet the number of words prescribed by the regulations of the Lord Clerk Register.

The fees in the above Table to be paid, though the duty be performed by the clerk-depute, or by an assistant clerk, and to be exclusive of postages and outlays.

The fees in criminal and any other business to be subject to the regulation of the Lord High Commissioners, or Commissioners of His Majesty's Treasury, or any three of them, from and after the passing of this Act.

Sheriffs' Courts (Scotland).

A

B I L L

[AS AMENDED BY THE COMMITTEE]

To regulate the Constitution, Jurisdiction and Forms of Process of Sheriff and Burgh Courts in *Scotland.*

(Prepared and brought in by
The Lord Advocate and Mr. Attorney General.)

Ordered, by The House of Commons, *to be Printed,*
3 *July* 1837.

473.

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CLAUSES AND AMENDMENTS

To be moved by Mr. *Wallace*, in the SHERIFF COURTS (Scotland) BILL.

Two Clauses, instead of Sections 1, 2, 3, 4, 5.

1. Union of the two Offices of Sheriff and Sheriff-substitute.

AND whereas the resident Sheriffs-substitute in each county of *Scotland* are paid by the public, and perform all the important functions of Sheriff: AND whereas the Sheriffs are also paid by the public for merely reviewing the decisions of their Substitutes, and are virtually absentee, in defiance of clear and distinct enactments enjoining residence, the holding of courts personally in the head burgh of their shires, and also itinerant courts, under wise and useful regulations, in place of performing their judicial functions, as at present, at the distance of hundreds of miles perhaps from their courts, and judging and deciding on written pleadings only, and evidence taken on commission only, without having any open courts, or the presence of litigants, witnesses, agents or counsel, and without any law or statute warranting such a gross breach of public duty: AND whereas the above illegal acts in the office of such Sheriffs as now constituted, has been and now is a great evil, being the chief, if not the only cause of continuing the present mischievous system of deciding causes on written statements or pleadings, and evidence taken down in writing and on commission, in preference to causes being tried only with evidence given in open court, and under cross-examinations there, aided by the oral pleading of parties, or their agents or counsel, besides creating and sanctioning an intermediate appeal to such Sheriffs, between the appeal which ought alone to exist from the Sheriff to the Court of Session, or to the Judges of the Court of Justiciary when on circuit: AND whereas the payment of salaries to the absentee Sheriffs is one great cause of the present inadequate salaries of those Judges who really and faithfully perform more than nine-tenths of the duty; BE it therefore Enacted, That on the death or resignation of the Sheriff of any county in *Scotland*, or of the Sheriff-substitute, or on his transference to any other jurisdiction, the two offices of Sheriff and Sheriff-substitute shall merge, and be held to be and are hereby united, and shall be known thereafter only as that of Sheriff, to which one person shall be appointed who shall be resident and perform his functions in person, but may have leave of absence from his sheriffdom for not more than Six Weeks in any year, by the special consent,

Limitation to one Sheriff.

Proviso as to existing appointments.

consent, in writing of the Secretary of State: Provided, and it is hereby Declared, That all appointments of Sheriff's substitute, if the persons presently in office are fully qualified as Judges, shall be and are hereby confirmed, as if made by Her Majesty from the date thereof; and where there are more than one Sheriff-substitute in any county, those having districts shall henceforth act as Sheriffs in their respective districts, and exercise cumulative jurisdiction with the other Sheriffs of such county; and their successors shall be appointed by Her Majesty, her heirs and successors.

2.
Retiring Allowances to Sheriffs and Sheriff's Substitute.

And be it Enacted, That on the resignation or removal of any Sheriff now in office, or on his declining to comply with this Act, he shall be entitled to receive an allowance during his life, not exceeding one-half of his present salary and emoluments as Sheriff; and on the resignation or removal of any Sheriff-substitute, he shall be entitled to receive an allowance during his life of not less than two-thirds of his present income as Sheriff-substitute.

Addition to Section 15, page 5, as to Servitudes.

"although such are created not by grant, but founded on prescription; provided that the claimant has not been out of possession for Seven Years previous to his bringing his action, or judicially stating his claim in defence."

Eleven Clauses before Clause 19, page 7, and to omit Section 16, 17, 18.

1.
Dependence of Actions; and Summons and Interlocutors to remain with the Clerk.

And be it Enacted, That after the execution of a Summons, the action shall be held to be in dependence, and shall never cease to be so until concluded; and the principal copy of the Summons in every action, and of all interlocutors, shall be kept in the hands of the Sheriff-clerk; and should any process be retained by a party beyond the time allowed, the other party, on giving Forty-eight Hours' notice through the Post Office (Sunday excepted), may proceed to obtain decree in his favour, against which the party in default shall only be reponed on payment of the sum of Twenty Shillings to the opposite party, to account of his expenses; and which decree may be extracted and put to execution though the other steps of process may not be returned to the Clerk, but without prejudice to caption being issued for the recovery thereof as heretofore; and the proceeding by protestation for not insisting is hereby abolished.

2.
Preliminary Arrestment.

AND whereas causes are often imperfectly originated, from the necessity of hastily obtaining a Warrant of Arrestment in urgent circumstances, and much consequent inconvenience and expense ensue which ought to be avoided; BE it Enacted, That any party may cause arrestment to be used with the view of raising an action, and

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and such arrestment shall remain good for Forty-eight Hours, but shall then become void, if no summons shall have been duly obtained and executed.

3. Preparation of Records.

AND whereas it is expedient to prevent undue expense and delay in the preparation of Records, and in the argument in causes in Sheriff Courts: AND whereas in all ordinary causes in Sheriff Courts the facts may be brought out for decision by the Judge in a Summons and Defences, with additions thereto if required, or, in causes of difficulty, in mutual Condescendences and Answers, and the argument may and should be confined to oral debate; BE it Enacted, That proceedings in Sheriff Courts shall in future be confined to a Summons and Defences, with additions, if required; and in causes of difficulty mutual Condescendences and Answers, if permitted by the Sheriff, on cause shown, and for reasons assigned by the Sheriff, with power to the parties, orally in open court, to debate the merits of the cause as set forth in the closed Record.

4. Summons and Defences.

And be it Enacted, That the Summons shall contain a full, concise and accurate statement of facts, and set forth in explicit terms the nature, extent and grounds of the cause of action or complaint, and the conclusions which, according to the form of the particular action, may be deduced therefrom, with references to evidence and authorities as set forth in the form in Schedule (   ) hereunto annexed; and the Defences shall, in like manner, fully and explicitly state every defence on which the defender means to rely with reference to evidence as aforesaid, and in particular shall meet the statements of fact, and the conclusions deduced from them in the summons, either by denying the facts therein stated, or by admitting the same, and subjoining a summary of the pleas in law which are to be maintained by such defender, as set forth in the Schedule ( ) hereunto annexed.

5. Some preliminary forms abolished, and correction of errors in service.

AND whereas the form of the Summons hereby prescribed is adapted to avoid the forms of "Calling Actions," the "Partibus," and "Taking to see;" BE it Enacted, That these several preliminary forms shall be and are hereby abolished; and that no exception shall hereafter be allowed against the service or execution of a Summons, if it shall appear that the defender has had notice of the action, and a full copy of the Summons; but if the contrary, the decree which the pursuer may have obtained, may be opened up, and the pursuer subjected in the expenses attending such defective proceedings, if justly attributable to him, up to the time of the appearance in Court, when such decree may be suspended by the Sheriff; and witnesses shall not be required to the service of such executions.

And

6. Record closed on Summons and Defences. Minutes. Mutual Condescendences and Answers. Record closed.

And be it Enacted, That after lodging the Summons and Defences, and where it may be necessary to prepare a record, the Sheriff shall appoint the parties or their procurators to appear before him, and shall examine into the relevancy and regularity of the proceedings, and the record shall then be closed, if parties are ready so to do, with or without short minutes made in presence of the Sheriff, confined to any accidental or unintentional omission, or the explanation or denial of any counter claim or set-off; but if not, the Sheriff shall, as aforesaid, then appoint mutual Condescendences and Answers to be given in, prepared as hereinafter directed, which shall be allowed to be adjusted in court, all additions or amendments being made on the original papers; and the Record shall then be closed, and a day shall be fixed when the parties may debate the cause *vivâ voce*, and the Sheriff shall thereupon decide the same, or order a proof, so far as he may consider to be requisite.

7. Form of Condescendences and Answers. Note of Pleas.

And be it Enacted, That where mutual Condescendences shall be permitted, the parties shall therein set forth under distinct heads, the averments on which they rest their respective pleas, as already set forth in the Summons and Defences, modifying the same, or adding such further statement of facts as shall appear necessary; and such papers shall contain the whole facts, with references to evidence and authorities as aforesaid: And that the parties respectively, in answering such Condescendences, shall explicitly admit or deny each separate averment, either entirely or with qualifications, setting forth in the article containing such admission or denial, those explanations in point of fact which relate to the subject-matter of the corresponding article in the Condescendence, and which may be necessary to make the answer intelligible; and both the Condescendences and Answers shall contain Notes of Pleas in Law: Provided, That in all cases where the Sheriff shall see cause, he shall appoint the Condescendences and Answers, or either of them, to be withdrawn as improperly prepared; and in such cases he shall award the expenses thereby occasioned to the party who is not in fault.

8. Record may be made up confined to certain grounds of action or defence.

And be it Enacted, That in all causes in which the pursuer or defender shall have any independent and alternative grounds of action or defence, the decision upon any one of which might render any inquiry into the others unnecessary, the Sheriff, if he shall see cause, upon consideration of the Summons and Defences, and after hearing parties, if requisite, may order that a record shall be prepared in the first instance confined to such independent and alternative ground of action or defence.

9. Provisions as to Records in ordinary Actions to apply to other Records.

And be it Enacted, That the whole regulations and provisions hereinbefore contained relative to the preparation of records in ordinary actions brought into court by Summons as aforesaid, shall apply to such records as may be prepared in other processes.

And

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10. Examination of Witnesses.

And be it Enacted, That all witnesses shall be examined by the parties in presence of the Sheriff and in open court, and he shall take notes of such evidence, as is done in criminal cases, to enable himself to decide the cause; and shall preserve such notes, of which a copy shall be made, at the expense of the party requiring the same, to be transmitted with the process in case of appeal; and after evidence shall have been so taken in any cause, the Sheriff shall hear parties upon such points as may appear debatable, and shall forthwith decide the cause: Provided, That where evidence requires to be taken out of the county, or at an inconvenient distance, the same shall be so taken in presence of the Sheriff of such other county or place in which the proof may be ordered to be taken, to whom a remit shall be made accordingly; and in taking such proofs on remit, the Sheriff shall dispose of all incidental questions of law, or objections which may arise, and may seal up the evidence in the meantime, taking a note of the question or objection for after consideration and decision; and no Sheriff shall have any remuneration for taking such proofs, but the parties in the cause shall defray his necessary travelling or other expenses; and, if convenient, such evidence, when taken on remit, shall be taken down by a short-hand writer; and every question and answer shall be written as it shall have been put and answered; and the whole evidence so taken shall be attested by the Sheriff and parties, but need not be signed by the respective witnesses.

Decision of Causes where Evidence taken.

Evidence taken on remit.

11. Incidental Discussions.

And be it Enacted, That any incidental matter which may arise in the cause shall be debated orally; for which purpose the Sheriff shall appoint a motion roll to be made up and called each court day, previous notice of forty-eight hours having been given through the Post Office, or otherwise, of the enrolment, and the purpose thereof; and whenever the Sheriff shall require explanations, or otherwise see cause, he shall order the process to be enrolled in the said roll; provided that the Sheriff shall award expenses against any party or procurator who may have caused undue expense or delay in the preparation of the record.

Delay, &c.

Page 7, after Section 19. Two Clauses.

(N. B.—*If first Clauses not adopted, this would be useful.*)

Notes with view to Appeal.

AND whereas it may be useful to the Sheriff, on the appeal of causes decided by the Sheriff-substitute, to have the views of parties stated in a concise and explicit manner; BE it Enacted, That when any cause is appealed to the Sheriff, the Sheriff-substitute shall give to the Sheriff-clerk his notes of arguments and authorities, subscribed by himself, to be transmitted, along with the process, to the Sheriff, and form part thereof; and either party, at a debate in any cause, may request the Sheriff-substitute to note down particular arguments or authorities.

Claimants in Multiple-poindings, to choose common Agent.

And be it Enacted, That the Sheriff may appoint claimants in multiple-poindings or other competitions, to meet and choose a common Agent, who shall prepare and lodge a state of the claims and preferences, and fulfil any other orders in the cause.

Take in before Section 20, page 7.

Sittings of Court.

And be it Enacted, That each Sheriff Court shall sit for the despatch of ordinary business at least Two Days in every week, if there shall be business on the roll, on such days as the Sheriff shall fix by a regulation of court, commencing each day at Ten of the clock in the morning, and continuing till the business is disposed of; and this during the whole year, with the exception of Six Weeks from the Fifteenth day of June to the First day of August, and Three Weeks from the Twenty-fourth day of December to the Fourteenth day of January.

At page 7, instead of Section 20.

Suspensions in Sheriff-courts of Decrees in absence by Sheriffs, and form of Suspension.

And be it Enacted, That any decree pronounced or extracted in absence in any civil cause, in any Sheriff Court, may be suspended on payment or consignation in the hands of the Clerk of Court of the expenses decerned for; but if the ground of suspension be want of notice of action, as hereinbefore provided, there shall be no consignation; and the Sheriff shall suspend the decree, and repone the defender, thereby reviving the action or proceeding in which such decree had been pronounced, as if decree had not been pronounced or extracted; and the party desiring such suspension shall lodge with the Clerk a Petition of Suspension, briefly reciting the import and effect of the decree sought to be suspended, and setting forth the relief or remedy craved; and on consignation as aforesaid, if required, such Petition shall be received and marked by the Clerk, and forthwith laid before the Sheriff, who shall thereupon repone the defender, and pronounce such order for intimation to and appearance to be made by the opposite party as may be just.

And leave out the last provision of the Clause, as printed in the Bill, beginning at the words " and such order, &c."

To make the Sum 100*l.* instead of 25*l.* in Section 21.

And leave out the provision in the end of the Clause, beginning " Provided."

In line 11, section 28, page 10, instead of words " as parties," insert " whether as parties or witnesses and havers, may be cited."

Leave out lines 15, 16, and part of line 17; and after the word " proceeding," in line 14, insert the words " and orders in Suspensions may also be served on such parties."

Before Section 31.

Jury Trial to extent of 100*l*.

AND whereas Jury Trial in Sheriff Courts is of immemorial practice and every-day occurrence, under simple, cheap and expeditious forms, for the decision of many grave and important matters known to the law of *Scotland*, and within the jurisdiction of Sheriffs, and ought to be extended; BE it Enacted, That all causes appropriate to Jury Trial, and not exceeding One hundred Pounds in value, may be tried with the aid of a Jury in Sheriff Courts, according to the present customary forms therein.

To be part of Section 31.

Summoning of Jurors, and citation of party accused.

AND whereas it is expedient to remedy the inconvenience of summoning Jurors to attend in Sheriff Courts from distant parts of the county, and to ascertain, previous to their being summoned to try any criminal matter in said court, that a Jury will be required, in consequence of the plea of Not Guilty having been made; BE it Enacted, That the person accused in any criminal cause to be tried after the passing of this Act before the Sheriff and a Jury, shall be summoned to appear at Two Diets, the First Diet after an induciæ of   Days, and the Second Diet after an induciæ of   Days; and at the First of these Diets, the panel or panels shall plead Guilty or Not Guilty in usual form; and in the event of a plea of Guilty being entered, the Sheriff shall proceed to pass sentence according to the present practice, and appearance at the Second Diet shall thereupon become unnecessary; and in the event of a plea of Not Guilty being made, the same shall be recorded, and the cause shall be adjourned till the second day of appearance, when the trial shall proceed; and in the mean time a Jury shall be summoned upon an induciæ of not less than   Days, for the trial of the cause upon the day to which it stands adjourned.

In the Clause about Sheriff-clerk's Fees, page 12, line 1.

To leave out the words "to be hereafter appointed," so as to make the proposed Fees apply to the existing officers; and the proviso at the end of the Clause to read "that the said Commissioners of the Treasury, or any three of them, *shall examine the rights of any existing Sheriff Clerk objecting* to establish the Table of Fees hereby fixed in any Sheriff Court, and to award to such Sheriff Clerk such *just* compensation by way of salary as they may think fit, which shall be payable out of the Duties and Revenues of Scotland: Provided also, That every Sheriff Clerk shall keep an account conform to the Schedule (   ), annexed to this Act, of the amount of the different sources of Fees drawn by such Clerk under this Act, and shall annually, at the beginning of each year, render such account to the Lords Commissioners of the Treasury, and for the use of Parliament when called for, and to be made into one regular and connected account or abstract."

To leave out the words about the Law Commissioners' Report, lines 18 to 24, page 13, and to take in the following Clauses after Section 34:

Sheriffs to state doubts and difficulties as to Forms, to Court of Session.

AND whereas great expense and delay have been occasioned by the misconstruction of Acts of Sederunt regulating the forms of process in Sheriff Courts, and much preliminary litigation has consequently ensued on matters of mere form, to the postponement, if not exclusion, of the merits of causes; BE it Enacted, That at the commencement of each winter session of the Court of Session, the Sheriffs of each county, shall individually lay before their own Courts and the Court of Session respectively, such suggestions as to them may seem proper for the improvement of the practice therein, with a statement of any doubts or difficulties which have occurred in the course of the previous year, in applying and practically working out the rules and forms fixed by Acts of Parliament or Acts of Sederunt, or which have stopped or stayed proceedings; which suggestions and statements shall be taken into consideration by the said Court of Session with all convenient speed; and the said Court shall thereafter prepare such alterations and amendments of the Acts of Sederunt as to it shall seem proper, and notify at same time to the Lord Advocate and one of the Principal Secretaries of State, such points as shall be beyond its authority; and immediately after which, and before the rising of the Court for the spring vacation, the Court shall cause to be published the alterations proposed to be so made, and the points reported to the officers of the Crown, for the information of the Public and the provincial Bar.

Court to consider them.

Public to be heard as to proposed alterations of Forms, &c.

AND whereas it is right and proper that the People and the provincial Bar should be allowed to make suggestions, and to be heard in regard to all Acts and Rules of Court and Rates of Fees, before being passed by the Court of Session, and which so materially affect their interests; BE it Enacted, That the Court of Session shall appoint a day or days at the commencement of the summer session to hear parties who may demand to be heard, or may have complaints or suggestions to offer in writing, regarding the Rules and Forms and Fees proposed to be enacted and levied in Sheriff Courts; and after the said proceedings, (which, if more convenient for the Court may take place before one or more Judges of one or other of the Inner Houses) the Court of Session shall alter, amend or confirm the forms of process and rates of Fees for Sheriff Courts; and shall do this and publish the same before the Court shall rise or separate for the first summer vacation after the passing of this Act; and the same course of proceeding shall take place every third year, or oftener if need be, and on cause shown to the Court of Session.

SCHEDULE.

FORM of Summons for Sheriff Courts.

Before Sheriff of the county [*or*, town] of .

A. B. Pursuer, carrying on business as a [*if not in business, say,* residing in] in the premises, number , street, in the town of county of

C. D. Defender, [*to be similarly designed.*]

The Defender is owing the Pursuer the sum of [*here insert the extent and nature of the debt or ground of action, under numerical and strictly specific heads or paragraphs, limited to simple facts*; *and if several articles of debt, the total to be stated, and the period or periods from which interest arises. The precise nature of the evidence in support of each fact to be stated*; *and if documentary, the documents to be produced, and simply referred to, without being quoted*]; which debt the Defender refuses or delays to pay: Therefore, the Pursuer ought to have decree against the Defender to enforce payment as aforesaid, with expenses of action: Because the Pursuer's claim is just and legal according to [*here simply refer to the authorities*]. Herefore, on sight hereof, Officers of Court will lawfully summon the Defender personally, or at his dwelling-place, to lodge defences in this action at the office of the Clerk of Court, on the day of One thousand eight hundred and Thirty-seven, being the seventh day next after the date of citation, excepting Sunday; with certification, in case of failure, of being held as confessed; and, if need be, the said officers will cite witnesses and havers for both parties to appear at the Court-house of the Sheriff on a day following such Defences being lodged, to be fixed by the Clerk of Court, so as to allow three free days to intervene, and to give evidence in the said matter; and in the meantime the said officers will arrest in security the goods, effects, debts and sums of money belonging to the Defender within the said county, in whose hands soever the same may be, to remain under arrestment until sufficient caution and security be found and entered in the court books, that the same may be made forthcoming to the Pursuer, as accords of law.

Given and subscribed by the Clerk of Court, at the day of One thousand eight hundred and Thirty-seven.

G. H. Sheriff Clerk.
[*also signing each page.*]

Note.—A similar Form to be adopted in every sort of action, modified merely according as the action is for performance, prevention or damages.

FORM of Defences in Sheriff Courts.

Defences for *C. D.* in the Action in which *A. B.* [*as designed*] is Pursuer, and *C. D.* [*as designed*] is Defender.

I.—PRELIMINARY or DILATORY DEFENCES (if any).

[*Stated under distinct heads, and confined to mere facts not affecting the merits of the matter in dispute*].

II.—PEREMPTORY DEFENCES.

[*Meeting by admission or denial, express or qualified, the facts of the Summons, or stating such other facts; each under its own head or paragraph, as bar the action of the Pursuer, with references to evidence, as in the Summons.*

SUMMARY of PLEAS in LAW.

[*Set forth the law and authorities in dogmatic propositions, only in the most general manner alluding to any fact, without which the law cannot be stated*].

[Signature of the party or his procurator].

SHERIFF COURTS (SCOTLAND) BILL.

CLAUSES AND AMENDMENTS

To be moved by Mr. *Wallace*, in the SHERIFF COURTS (Scotland) BILL.

July 1837.

0.98.

27 *June* 1837.—1 VICT.

A

BILL,

INTITULED,

AN ACT to interpret the Words "Sheriff," "Sheriff Clerk," "Shire," "Sheriffdom," and "County," occurring in Acts of Parliament relating to *Scotland.*

WHEREAS it is expedient that the words "Sheriff," "Sheriff Clerk," "Shire," "Sheriffdom," and "County," used in Acts of Parliament relating to *Scotland*, should be interpreted in manner hereinafter mentioned; **Be it Enacted**, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT in all cases in which the words "Sheriff," "Sheriff Clerk," "Shire," "Sheriffdom," and "County," occur in any existing Act of Parliament, or shall occur in any future Act relating to *Scotland*, the word "Sheriff," shall be deemed and taken to comprehend and apply to any Steward, the words "Sheriff Clerk" to comprehend "Steward Clerk," and the words "Shire," "Sheriffdom," and "County," to comprehend and apply to any Stewartry in *Scotland*, excepting where otherwise specially provided, and excepting cases in which there is any thing in the subject or context repugnant to such meaning and application.

Interpretation of Words "Sheriff," "Sheriff Clerk," &c. in Acts relating to Scotland.

Sheriffs, &c. (Scotland).

A

B I L L,

INTITULED,

AN ACT to interpret the Words "Sheriff," "Sheriff Clerk," "Shire," "Sheriffdom," and "County," occurring in Acts of Parliament relating to *Scotland.*

Ordered, by The House of Commons, *to be Printed,*
27 *June* 1837.

436.

9 *March* 1837.—7 Will. IV.

A

BILL

For the Establishment of a Marine Board, and for the better Regulation of the Merchant Shipping of the Kingdom.

[Note.—The Words and Clause printed in *Italics* are proposed to be inserted in the Committee.]

Preamble.

WHEREAS it is expedient to establish a Marine Board in London, for the general superintendence of the Merchant Shipping of the Kingdom, and to empower the said Board to discharge the several duties which such superintendence shall require; **Be it therefore Enacted**, by The KING's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

1. That a Marine Board shall be established in London, to be composed of *Seven* Members, of whom *Four* shall be practical nautical men, who have been *Ten* Years in actual service at sea, and *Five* Years at least in command of some ship or vessel in the Royal Navy or in the Merchant Service on foreign voyages, and of whom *One* shall be an experienced Master Shipbuilder of at least *Ten* Years' practice in that capacity, *One* a Professor of Nautical Astronomy and Navigation, and *One* a Member of the Legal Profession of at least *Ten* Years' standing at the Bar.

2. That the appointment of the said Members shall be made by the several authorities hereinafter named; (videlicet) *One* Nautical Member shall be appointed by the Board of Admiralty, *One* by the Corporation of the Trinity House, *One* by the Shipowners' Society, and *One* by the Society of Underwriters at Lloyd's; the Master

Shipbuilder shall be appointed by the Senior Master Builder in His Majesty's Service; the Professor of Nautical Astronomy and Navigation shall be appointed by the Astronomer Royal at Greenwich; and the Member of the Legal Profession shall be appointed by the Lord Chief Justice of the King's Bench for the time being.

3. THAT after the appointment of the several Members before enumerated shall have taken place, no one of them shall be removed from his office during his lifetime, or until he has attained the age of *Seventy* Years (which shall be deemed the period for superannuation), unless he shall be guilty of such neglect or breach of duty as shall, in the opinion of every other Member of the Board, and of the authority or authorities by whom he was appointed, render him unfit to continue longer in the office he holds; upon which unanimous and concurrent decision alone shall any Member be removed.

4. THAT after the appointment of the several Members of the Board, in manner before described, the said Members shall elect from among their number, by way of ballot, one of their body to act as President, and another to act as Vice President of the Board, which offices shall also be held by the parties then elected for life, or to the age of *Seventy*, without removal, except for such causes as have been before specified.

5. THAT in the event of the death, resignation, or removal of either of the Members of the Board, the vacancy so occasioned shall be filled up by the same authority as that by which the person so removed was originally appointed; but if the Member whose place is to be thus supplied should be the President or Vice President of the Board, the new Member coming in to supply the vacancy shall not succeed to the office held by his predecessor, by mere virtue of his appointment to be a Member of the Board; but in every such case of a vacancy being created by any cause in the office of President or Vice President, the Board shall proceed to elect, by ballot, such Member as they may most approve, to fill such vacancy; the election to be determined by a *majority* of votes.

6. THAT the annual Salaries of the ordinary Members of the Board shall not exceed *Six hundred* Pounds each, the Salary of the Vice President *Eight hundred* Pounds, and the Salary of the President *Twelve hundred* Pounds per annum.

7. THAT the meetings of the Board shall be held daily (Sundays and public holidays alone excepted), from *Ten* of the clock in the forenoon to *Four* of the clock in the afternoon, for the transaction of public business; and in all their meetings, the President, Vice President, or senior Member present, shall act as Chairman of the same.

8. That the Board shall be authorized to employ a competent number of skilful and experienced Surveyors of Shipping, to make such surveys as may be directed of ships while building, and when reported ready for sea; and also to employ a competent number of fit and proper Examiners, to examine publicly all Officers and Commanders, as to their proficiency in Seamanship and Navigation, previous to their being appointed to the charge of Ships for sea: Provided always, That the Salaries of such Surveyors and Examiners shall not on the whole exceed the sum of *Two thousand* Pounds per annum.

9. That the Board shall be authorized to maintain an establishment of Clerks for their Office: Provided always, That the salaries of the whole number of such Clerks shall not exceed the sum of *One thousand* Pounds per annum.

10. That the first duty of the Board shall be to prepare and compile a code of Maritime Regulations, for the better government of the Mercantile Marine of the kingdom, embracing the following objects: first, A definition of the minimum standard of strength in the scantlings, fastenings, and planking of Ships of different sizes, and employed in different trades; second, The formation of a minimum scale of supplies in anchors and cables, spars, cordage, sails, provisions and water, to be taken on board all Ships when ready for sea, according to their size, the number of their crews and passengers, and the distance of their voyages; third, The fixing certain rules for the loading of ships on particular voyages, so as to guard against the frequent losses occasioned by the carrying cargo on the decks; fourth, The establishment of a minimum standard of qualification in the knowledge of Seamanship and Navigation for persons passing examination as candidates for the office of captain or officer on board any Merchant Vessel; fifth, The formation of a body of Rules and Orders for the conduct and discipline of officers and men in the Merchant Service at sea and in port.

11. That when such Code of Maritime Regulations shall have been so compiled, and undergone discussion and examination before the Board, and shall have received the assent of the *majority* of its Members, the whole shall be published in a cheap volume, so as to be easily accessible to all persons whose interests may be concerned; and after *Six* Months from the date of such publication, the Rules, Orders and Regulations so authorized and made public, shall be considered as the established Code of Regulations for the Merchant Service of Great Britain.

12. That the Marine Board shall also have the power to establish in London, Registry Offices for the registration of the names,

qualifications and services of such officers and seamen as may wish to avail themselves of the same, to facilitate their obtaining employment; as well as the establishment of Savings Banks, for Seamen to deposit any portion of their wages at interest; of Asylums to receive and shelter Seamen when out of employ on shore; and of cheap Nautical Schools, either in ships afloat or in buildings on shore, for the training up of boys in such practical knowledge and sober and orderly habits, as may best fit them to become good and valuable seamen.

13. That the Board shall also have power to institute a Court of Inquiry into the circumstances of every shipwreck that occurs in any British Vessel, whether at home or abroad, as far as the same can be done, as well as to make public the decision of such Court; and to pass such censures, and grant such rewards, as the conduct of the different individuals among the officers and crew in each case respectively may seem to them to deserve.

14. That the Board shall be empowered to sit as a Marine Court of Justice and Police for the settlement of all disputes that may arise between Shipowners, Merchants and Underwriters, as to questions of insurance, salvage, freights and customary dues; also between Shipowners and their officers, crews and passengers, or between any individuals on board such ships, whether passengers, officers or men, whenever such disputes shall relate to any thing connected with the payment of wages or passage-money, the enforcement or breach of discipline, the insufficiency of equipment in stores, provisions or water, or any other matter or thing that can be strictly considered as connected with the better regulation of the Mercantile Marine; and the decision of such Court, by a *majority* of the members in any such disputed cases, shall be held binding in law, and be enforced by the authority of the Court on all the parties in the case: Provided always, That all the proceedings of such Court shall be open and accessible to the public at large; that the forms and rules of evidence in the ordinary Courts of Law and Police be observed; and that Counsel be allowed to plead in cases in which the parties may desire to have that advantage, at their own expense.

15. That the Board shall have power to examine and report upon all plans of improvement in Maritime Affairs, whether relating to the building, equipping or navigation of ships, or in any other way calculated to diminish the loss of life and property at sea, whenever such plans shall be submitted to them for that purpose.

16. That the Board shall be authorized to open negotiations with the Maritime Authorities in other countries, for the purpose of forming a bond of union between all Maritime Nations, to facilitate

the preservation of the lives of shipwrecked mariners, and the property of shipwrecked vessels cast upon their shores, either in time of peace or war; so as to make each nation reciprocally bound to the other for the due observance of the claims of humanity and justice towards all those who may have the misfortune to be cast upon their coasts.

17. That the Board shall have power to grant authority for the formation of Auxiliary or Branch Marine Boards in the ports of Liverpool, Bristol, Newcastle and Hull, in England; Aberdeen, Leith and Greenock, in Scotland; and Cork, Dublin and Belfast, in Ireland; assigning to each a certain line of coast from port to port for its district of jurisdiction, and prescribing the number and composition of the Members of each such Board respectively: Provided always, That each of the Auxiliary or Branch Boards shall be composed of not less than *Three*, nor more than *Five* Members, to be appointed by the Trinity House, the Chamber of Commerce, and the Municipal Corporation of each port respectively, or in the absence of either of these bodies, by such other local authorities as the London Marine Board may approve; such appointments to be irrevocable, except for wilful neglect or violation of duty: Provided also, That all the Members of such Branch Boards shall be practically nautical men, and that the Code of Maritime Regulations to be issued by the Marine Board in London shall be adhered to as their rule for conducting the surveys of the Ships, the examination of the Officers, and the settlement of all the disputes between Shipowners, Officers, Crews and Passengers, which may be brought before them: Provided also, That the election of President and filling up of vacancies in the Branch Boards, shall be conducted as in the London Board; that the salaries of the Members, and allowance for Surveyors, Examiners and Clerks, shall not exceed in any case *One-half* the amount named for each of these several departments in the London scale; and that the whole expenditure of any one Branch Board shall not exceed the sum of *Two thousand five hundred* Pounds per annum.

18. That the Funds for the payment of the salaries and expenses of the London Board shall be derived from the following sources; (videlicet) first, A Commission on the settlement of all questions of disputed insurance, salvage, freight, passage-money, wages and customary dues, not to exceed *Five* Pounds per centum on the amount of the sum in dispute, in lieu of all law charges for the adjustment of the same; second, Fees on the survey and registration of every new ship launched in the Port of London, not to exceed *One Guinea* for every *One hundred* Tons of measurement to each ship respectively; third, Fees on the survey and certificate of every ship under-

going a general repair in the Port of London, not to exceed *Half-a-Guinea* to every *One hundred* Tons of measurement for each ship respectively; fourth, Fees on the survey and certificate of every ship reported ready for sea, and sailing from the Port of London, not to exceed *Five* Shillings for every *One hundred* Tons of measurement for each ship respectively; fifth, Fees on the examination and certificate of every officer appointed to the rank of Captain in the Mercantile Marine, not to exceed *One Guinea* for every *One hundred* Tons of measurement of the ship to which his first appointment is made; sixth, Fees on the examination and certificate of every officer appointed to the rank of First Mate, not to exceed *Half-a-Guinea* for every *One hundred* Tons measurement of the ship to which his appointment is first made; and on the examination and certificate of every officer appointed to the rank of Second Mate, not to exceed *Five* Shillings for every *One hundred* Tons measurement of the ship to which his appointment is first made; such rates of Fees to apply only to ships and officers sailing on foreign voyages; and *One-fourth* the amount only to be paid by ships and officers employed in the Coasting Trade.

19. THAT the Board shall be empowered to grant certificates of registry to ships examined and reported by their surveyors to be built, repaired, equipped and furnished according to the rules laid down by the Board in their General Code of Regulations for the Mercantile Marine; and also to grant certificates to Captains and Officers of different ranks who have successfully passed their examinations as such before the Examiners appointed by the Board for that purpose, accompanied by authority to wear the uniform to be prescribed by the Board for each class of passed officers in the Merchant Service of the kingdom.

20. THAT in the event of the funds furnished from the several sources before enumerated being insufficient to raise the amount specified in a former part of this Act, as the maximum of the expense of the Marine Board in London, namely, Eight thousand Pounds per annum, it shall be lawful for the Board of Admiralty and the Corporation of the Trinity House to grant such supplies in aid, in equal portions, from the respective funds at their disposal, as may be required to make up the deficiency; and in the event of the prescribed fees producing more than may be required for the current expenses of the Board, the amount shall be invested in the public securities as a reserve fund for years of deficiency, till it reaches the sum of Eight thousand Pounds, to be kept as one year's expenses in advance; after which, if further surplus should accrue, the fees shall be so reduced as to keep them down to the lowest level that the annual specified rates of expenditure for the Board will admit.

21. THAT

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21. THAT the funds for the maintenance of the Auxiliary or Branch Marine Boards in the Ports named shall be drawn from the same sources of commissions on the settlement of disputed cases of insurance, freight, passage-money and wages, and from fees on surveys, registrations and certificates to ships and officers, according to the same scale as that established for London.

22. THAT an account shall be kept by each of the Branch Marine Boards of all payments made to them in commission or fees, and all expenses incurred; and a quarterly return of each shall be transmitted to the Central Board in London; and the said Central Board shall be empowered so to regulate the balance in the hands of each of the Branch Boards as to apply the surplus of the one to make good the deficiency of the other, so as to make the institution of Marine Boards self-supporting, as far as practicable; and thus to render it unnecessary to apply to any other source than the funds thus received, for carrying on and conducting the whole business of the Central and Branch Boards as parts of one and the same establishment, the total expense of which, including the Central Board for London and all the Branch Boards at the several Outports named for England, Scotland and Ireland, shall not exceed the sum of *Thirty thousand* Pounds per annum.

23. THAT in the construction of this Act, the word "Ship" shall be understood to include every description of vessel navigated by sails or by steam-power above the burthen of *Fifty* Tons, if navigating any part of the sea; but not to include vessels of any description employed wholly in fresh water; and that all other words shall be construed in their most usual and popular meaning.

24. THAT this Act shall extend to all parts of England, Scotland and Ireland; that it shall be taken to be a Public Act; and that it may be altered, amended or repealed by any Act to be passed during the present Session of Parliament.

Merchant Shipping.

A

BILL

For the Establishment of a Marine Board, and for the better Regulation of the Merchant Shipping of the Kingdom.

(*Prepared and brought in by*
Mr. Buckingham, Sir Edward Codrington,
and Colonel Thompson.)

Ordered, by The House of Commons, *to be Printed,*
9 *March* 1837.

102.

13 *April* 1837.—7 WILL. IV.

A

B I L L

For the Establishment of a Marine Board, and for the better Regulation of the Merchant Shipping of the United Kingdom.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble.

WHEREAS it is expedient to establish a Marine Board in London, for the general superintendence of the Merchant Shipping of the Kingdom, and to empower the said Board to discharge the several duties which such superintendence shall require; **Be it therefore Enacted**, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT a Marine Board shall be established in London, to be composed of *Seven* Members, of whom *Four* shall be practical nautical men, who have been *Ten* Years in actual service at sea, and *Five* Years at least in command of some ship or vessel in the Royal Navy or in the Merchant Service on foreign voyages, and of whom *One* shall be an experienced Master Shipbuilder of at least *Ten* Years' practice in that capacity, *One* a Professor of Nautical Astronomy and Navigation, and *One* a Member of the Legal Profession of at least *Ten* Years' standing at the Bar.

1. Marine Board established.

2. By whom Board to be nominated.

And be it Enacted, That the appointment of the said Members shall be made by the several authorities hereinafter named; (videlicet) *One* Nautical Member shall be appointed by the Board of Admiralty, *One* by the Corporation of the Trinity House, *One* by the Shipowners' Society, and *One* by the Society of Underwriters at Lloyd's; the Master Shipbuilder shall be appointed by the Senior Master Builder in His Majesty's Service; the Professor of Nautical Astronomy and Navigation

tion shall be appointed by the Astronomer Royal at Greenwich; and the Member of the Legal Profession shall be appointed by the Lord Chief Justice of the King's Bench for the time being.

3.
Members of Board not to be removed, except in certain cases.

And be it Enacted, That after the appointment of the several Members before enumerated shall have taken place, no one of them shall be removed from his office during his lifetime, or until he has attained the age of *Seventy* Years (which shall be deemed the period for superannuation), unless he shall be guilty of such neglect or breach of duty as shall, in the opinion of every other Member of the Board, and of the authority or authorities by whom he was appointed, render him unfit to continue longer in the office he holds; upon which unanimous and concurrent decision alone shall any Member be removed.

4.
President to be elected.

And be it Enacted, That after the appointment of the several Members of the Board, in manner before described, the said Members shall elect from among their number, by way of ballot, one of their body to act as President, and another to act as Vice-President of the Board, which offices shall also be held by the parties then elected for life, or to the age of *Seventy*, without removal, except for such causes as have been before specified.

5.
For filling up Vacancies in the Board.

And be it Enacted, That in the event of the death, resignation or removal of either of the Members of the Board, the vacancy so occasioned shall be filled up by the same authority as that by which the person so removed was originally appointed; but if the Member whose place is to be thus supplied should be the President or Vice-President of the Board, the new Member coming in to supply the vacancy shall not succeed to the office held by his predecessor, by mere virtue of his appointment to be a Member of the Board; but in every such case of a vacancy being created by any cause in the office of President or Vice-President, the Board shall proceed to elect, by ballot, such Member as they may most approve to fill such vacancy; the election to be determined by a *majority* of votes.

6.
Salaries.

And be it Enacted, That the annual Salaries of the ordinary Members of the Board shall not exceed *Six hundred* Pounds each, the Salary of the Vice-President *Eight hundred* Pounds, and the Salary of the President *Twelve hundred* Pounds per annum.

7.
Meetings to be held daily.

And be it Enacted, That the meetings of the Board shall be held daily (Sundays and public holidays alone excepted), from *Ten* of the clock in the forenoon to *Four* of the clock in the afternoon, for the transaction of public business; and in all their meetings, the President, Vice-President, or senior Member present, shall act as Chairman of the same.

And

8. Board to employ Surveyors of Shipping.

And be it Enacted, That the Board shall be authorized to employ a competent number of skilful and experienced Surveyors of Shipping, to make such surveys as may be directed of ships while building, and when reported ready for sea; and also to employ a competent number of fit and proper Examiners, to examine publicly all Officers and Commanders as to their proficiency in Seamanship and Navigation, previous to their being appointed to the charge of Ships for sea: Provided always, That the Salaries of such Surveyors and Examiners shall not on the whole exceed the sum of *Two thousand* Pounds per annum.

9. Board to maintain an establishment of Clerks.

And be it Enacted, That the Board shall be authorized to maintain an establishment of Clerks for their Office: Provided always, That the salaries of the whole number of such Clerks shall not exceed the sum of *One thousand* Pounds per annum.

10. To prepare a Code of Maritime Regulations.

And be it Enacted, That the first duty of the Board shall be to prepare and compile a code of Maritime Regulations, for the better government of the Mercantile Marine of the Kingdon, embracing the following objects: first, A definition of the minimum standard of strength in the scantlings, fastenings and planking of Ships of different sizes, and employed in different trades; second, The formation of a minimum scale of supplies in anchors and cables, spars, cordage, sails, provisions and water, to be taken on board all Ships when ready for sea, according to their size, the number of their crews and passengers, and the distance of their voyages; third, The fixing certain rules for the loading of ships on particular voyages, so as to guard against the frequent losses occasioned by the carrying cargo on the decks; fourth, The establishment of a minimum standard of qualification in the knowledge of Seamanship and Navigation for persons passing examination as candidates for the office of captain or officer on board any Merchant Vessel; fifth, The formation of a body of Rules and Orders for the conduct and discipline of officers and men in the Merchant Service at sea and in port.

11. Regulations to be published.

And be it Enacted, That when such Code of Maritime Regulations shall have been so compiled, and undergone discussion and examination before the Board, and shall have received the assent of the *majority* of its Members, the whole shall be published in a cheap volume, so as to be easily accessible to all persons whose interests may be concerned; and after *Six* Months from the date of such publication, the Rules, Orders and Regulations so authorized and made public, shall be considered as the established Code of Regulations for the Merchant Service of Great Britain.

12. Registry Offices to be established.

And be it Enacted, That the Marine Board shall also have the power to establish in London, Registry Offices for the registration of the names, qualifications and services of such officers and seamen as may wish to avail themselves of the same, to facilitate their obtaining employment; as well as the establishment of Savings Banks, for Seamen to deposit any portion of their wages at interest; of Asylums to receive and shelter Seamen when out of employ on shore; and of cheap Nautical Schools, either in ships afloat or in buildings on shore, for the training up of boys in such practical knowledge and sober and orderly habits, as may best fit them to become good and valuable seamen.

13.
To institute a Court of Inquiry in cases of Shipwreck.

And be it Enacted, That the Board shall also have power to institute a Court of Inquiry into the circumstances of every shipwreck that occurs in any British Vessel, whether at home or abroad, as far as the same can be done, as well as to make public the decision of such Court; and to pass such censures, and grant such rewards, as the conduct of the different individuals among the officers and crew in each case respectively may seem to them to deserve.

14.
To settle Disputes.

And be it Enacted, That the Board shall be empowered to sit as a Marine Court of Justice and Police for the settlement of all disputes that may arise between Shipowners, Merchants and Underwriters, as to questions of insurance, salvage, freights and customary dues; also between Shipowners and their officers, crews and passengers, or between any individuals on board such Ships, whether passengers, officers or men, whenever such disputes shall relate to any thing connected with the payment of wages or passage-money, the enforcement or breach of discipline, the insufficiency of equipment in stores, provisions or water, or any other matter or thing that can be strictly considered as connected with the better regulation of the Mercantile Marine; and the decision of such Court, by a *majority* of the members in any such disputed cases, shall be held binding in law, and be enforced by the authority of the Court on all the parties in the case: Provided always, That all the proceedings of such Court shall be open and accessible to the public at large; that the forms and rules of evidence in the ordinary Courts of Law and Police be observed; and that Counsel be allowed to plead in cases in which the parties may desire to have that advantage, at their own expense.

15.
To examine Plans for improvement in Maritime Affairs.

And be it Enacted, That the Board shall have power to examine and report upon all plans of improvement in Maritime Affairs, whether relating to the building, equipping or navigation of ships, or in any other way calculated to diminish the loss of life and property at sea, whenever such plans shall be submitted to them for that purpose.

16.
To take measures for preservation of Lives in cases of Shipwreck.

And be it Enacted, That the Board shall be authorized to open negotiations with the Maritime Authorities in other countries, for the purpose of forming a bond of union between all Maritime Nations, to facilitate the preservation of the lives of shipwrecked mariners, and the property of shipwrecked vessels cast upon their shores, either in time of peace or war; so as to make each nation reciprocally bound to the other for the due observance of the claims of humanity and justice towards all those who may have the misfortune to be cast upon their coasts.

17.
Formation of Branch Marine Boards.

And be it Enacted, That the Board shall have power to grant authority for the formation of Auxiliary or Branch Marine Boards in the ports of Liverpool, Bristol, Newcastle and Hull, in England; Aberdeen, Leith and Greenock, in Scotland; and Cork, Dublin and Belfast, in Ireland; assigning to each a certain line of coast from port to port for its district of jurisdiction, and prescribing the number and composition of the Members of each such Board respectively: Provided always, That each of the Auxiliary or Branch Boards shall be composed of not less than *Three*, nor more than *Five* Members, to be appointed by the Trinity House, the Chamber of Commerce, and the Municipal Corporation of each Port respectively, or, in the absence of either of these bodies, by such other local authorities as the London Marine Board may approve; such appointments to be irrevocable, except for wilful neglect or violation of duty: Provided also, That all the Members of such Branch Boards shall be practically nautical men, and that the Code of Maritime Regulations to be issued by the Marine Board in London shall be adhered to as their rule for conducting the surveys of the Ships, the examination of the Officers, and the settlement of all the disputes between Shipowners, Officers, Crews and Passengers, which may be brought before them: Provided also, That the election of President and filling up of vacancies in the Branch Boards, shall be conducted as in the London Board; that the salaries of the Members, and allowance for Surveyors, Examiners and Clerks, shall not exceed in any case *One-half* the amount named for each of these several departments in the London scale; and that the whole expenditure of any one Branch Board shall not exceed the sum of *Two thousand five hundred* Pounds per annum.

18.
To grant Certificates of Registry.

And be it Enacted, That the Board shall be empowered to grant certificates of registry to ships examined and reported by their surveyors to be built, repaired, equipped and furnished according to the rules laid down by the Board in their General Code of Regulations for the Mercantile Marine; and also to grant certificates to Captains and Officers of different ranks who have successively passed their examinations as such before the examiners appointed by the Board for that purpose, accompanied by authority to wear the uniform to be prescribed by the Board for each class of passed officers in the Merchant Service of the Kingdom.

19.
Maintenance of Branch Marine Boards.

And be it Enacted, That the funds for the maintenance of the Auxiliary or Branch Marine Boards in the Ports named shall be drawn from the same sources of commissions on the settlement of disputed cases of insurance, freight, passage-money and wages, and from fees on surveys, registrations and certificates to ships and officers, according to the same scale as that established for London.

20.
Accounts to be kept by Branch Marine Boards.

And be it Enacted, That an account shall be kept by each of the Branch Marine Boards of all payments made to them in commission or fees, and all expenses incurred; and a quarterly return of each shall be transmitted to the Central Board in London; and the said Central Board shall be empowered so to regulate the balance in the hands of each of the Branch Boards as to apply the surplus of the one to make good the deficiency of the other, so as to make the institution of Marine Boards self-supporting, as far as practicable; and thus to render it unnecessary to apply to any other source than the funds thus received, for carrying on and conducting the whole business of the Central and Branch Boards as parts of one and the same establishment, the total expense of which, including the Central Board for London and all the Branch Boards at the several Outports named for England, Scotland and Ireland, shall not exceed the sum of *Thirty thousand* Pounds per annum.

21.
Construction of Terms.

And be it Enacted, That in the construction of this Act, the word " Ship" shall be understood to include every description of vessel navigated by sails or by steam-power above the burthen of *Fifty* Tons, if navigating any part of the sea; but not to include vessels of any description employed wholly in fresh water; and that all other words shall be construed in their most usual and popular meaning.

22.
Act to be deemed Public.

And be it Enacted, That this Act shall extend to all parts of England, Scotland and Ireland; that it shall be taken to be a Public Act; and that it may be altered, amended or repealed by any Act to be passed during the present Session of Parliament.

Merchant Shipping Regulation.

A

BILL

For the Establishment of a Marine Board, and for the better Regulation of the Merchant Shipping of the United Kingdom.

(*Prepared and brought in by*
Mr. Buckingham & Sir Edward Codrington.)

Ordered, by The House of Commons, *to be Printed,*
13 *April* 1837.

193.

28 *June* 1837.—1 Vict.

A

BILL

To amend the Law relating to Mortgages of Ships and Vessels.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble.

WHEREAS by certain provisions of an Act passed in the fourth year of the reign of his late Majesty, intituled, " An Act for the registering of British Vessels," Mortgagees of Ships were exempted from the liability of Owners:

And whereas it has been found that too great facility has in consequence been afforded to Owners of Ships, who have obtained credit for the repairs or outfit thereof, to raise money by way of mortgage thereon to the full value of the Ship, when so repaired or outfitted, to the prejudice of such Creditors in the event of the mortgagee taking possession of such Ship, or the Owner thereof becoming bankrupt; and it is expedient to provide a remedy in that behalf, and to afford to such Creditors a more effectual security for their claims, in case of the Ship being mortgaged after notice of such claims;

1.
No Mortgage of any Ship to be valid, unless Thirty Days' notice of the Transfer be given to the Registering Officer at the Ship's Port of Registry.

BE it therefore Enacted, by The QUEEN's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the *One thousand eight hundred and Thirty-seven,* no transfer of any Ship or Vessel, or of any share or shares thereof, as a security for the payment of a debt or debts, or any sum or sums of money, either by way of mortgage or of assignment, to a Trustee or Trustees for the purpose of selling the same for the payment of any debt or debts, of any sum or sums of money, shall be valid or effectual for any purpose whatever, either at law or in equity, unless *Thirty* clear Days at least, before the bill of sale, deed or other instrument in writing, by which such transfer may be made, shall be entered in the Book of Registry, according to the provisions of the Act for the registering of British Vessels, a notice in writing shall be given by the person or persons intending to make such transfer, to the Registering Officer of Shipping at the Port where the said Ship or Vessel shall be registered, and which notice shall contain the several particulars mentioned in the Notice in Schedule (A.) to this Act annexed, or such of them as may be applicable to the case: Provided always, That no technical error in such notice shall affect the validity of any such transfer.

2.

No entry of the Bill of Sale affecting the Transfer to be made in the Book of Registry, unless such Notice be given.

And be it Enacted, That no entry of any Bill of Sale, Assignment or other instrument in writing, by which such transfer is to be effected, shall be made in the Book of Registry of any port or place by the Registering Officer thereof, or any other person, unless such notice of transfer shall have been given as aforesaid, and until *Thirty* Days shall have elapsed after the receipt of such notice of transfer by the Registering Officer, to whom the same may be given as aforesaid, exclusive of the day on which such notice shall have been received, and of the day of such entry.

3.

Notice of Transfer Books to be provided, in which the Notices are to be entered.

Copies of the Notices to be sent by the Registering Officer at the Port of Registry to the Commissioners of Customs in London, and to the Registering Officer at the Port where the Ship is, or of her last Port of Outfit.

And be it Enacted, That the Collector of Customs at every Port of Registry in the United Kingdom shall and is hereby required to provide and keep in the Registry Office of such Port a book, to be called "the Notice of Transfer Book;" and on the receipt of every such notice of transfer, the Registering Officer of such Port of Registry shall and is hereby required to indorse on such notice a memorandum of the terms of the receipt thereof, and to make a copy thereof and of such memorandum in the said book, and shall also forthwith transmit another copy of the said notice and memorandum to the Commissioners of Her Majesty's Customs in London, and shall also transmit one other copy thereof respectively to the Registering Officer of the Port described in the said notice of transfer as the Port where the Ship then is, or of the last Port of Outfit, as the case may be; and in case there shall be no Collector or Comptroller of Customs at such last-mentioned Port, then and in such case to the Collector of Customs of the Port nearest to the Port described in the said notice as aforesaid; and the respective Registering Officers to whom such copies shall be transmitted, shall and are hereby required to file and keep the same in their respective Offices of Registry; and the said Commissioners of Customs shall and are thereby required to provide and keep, in the Office for registering Vessels in London, a book to be called "The General Notice of Transfer Book," and cause to be entered therein abstracts of or sufficient extracts from the several copies of notices of transfer which shall be transmitted to them as aforesaid, with notes of the times of the receipt thereof respectively by the several Registering Officers to whom the same shall have been delivered.

4.
Books and Entries may be inspected, and Extracts made.

And be it Enacted, That the Registering Officers at any Port in the United Kingdom shall and are hereby required, on reasonable request, to permit and suffer any person to inspect the Register of any Ship or Vessel registered at their respective Ports, and any entry or entries made therein, and also all notice of transfer books and all entries therein, and declarations of claim and receipts hereinafter mentioned, filed or kept in their respective Offices of Registry, and to make any copy or copies, extract or extracts therefrom; and the said Commissioners of Customs shall in like manner permit and suffer any person to inspect the General Notice of Transfer Book and all entries therein, and to make a copy or copies, extract or extracts therefrom.

5.
Persons having Claims for Repairs, Supplies or Outfit, may, within the Thirty Days mentioned in the Notice of Transfer, transmit Declarations of Claim to the Port of Registry.

And be it Enacted, That from and after the any person having any claim or demand for which the Owner or Owners of any Ship would be liable for repairs done, or supplies, stores or necessaries provided to or for any Ship or Vessel, or for the Outfit thereof, whether the same shall be payable at some future time or otherwise, may, if he shall so think fit, at any time before the expiration of the *Thirty* Days before mentioned, transmit or deliver to the Registering Officer of the Port where such Ship shall be registered, a solemn declaration of claim, according to the form of declaration of claim in Schedule (B.) to this Act annexed: Provided always, That such declaration of claim shall have been made before any Justice of the Peace, Notary Public or other person authorized or empowered to take and receive declarations according to the provisions of an Act of the fifth and sixth years of the reign of his late Majesty, intituled, "An Act to repeal an Act of the present Session of Parliament, intituled, 'An Act for the more effectual Abolition of Oaths and Affirmations taken and made in various departments of the State, and to substitute Declarations in lieu thereof, and for the more entire Suppression of voluntary and extra-judicial Oaths and Affidavits, and to make other Provisions for the Abolition of unnecessary Oaths.'"

Declaration to be made according to statute 5 & 6 W. 4, c. 62.

6.
Declarations of Claim to be filed in the Offices of Registry.

And be it further Enacted, That the Registering Officer of any Port, to whom such declaration or declarations of claim shall be transmitted or delivered as aforesaid, shall and is hereby required, on the receipt thereof, to file and keep the same in his office of registry, together with the notice of transfer of the Ship, or any shares thereof in respect to which any such declaration of claim may have been made as aforesaid.

And

7\.
Indorsement to be made on the Bill of Sale, that it is made subject to the Declaration of Claim.

And be it Enacted, That on the entry of such transfer being made as required by law in the Book of Registry, the Registering Officer shall and he is hereby required to indorse on the Bill of Sale, or other instrument in writing by which such transfer may be made, a notice of such claims, in manner and according to the form mentioned in Schedule (C.) to this Act annexed.

8\.
Creditors having filed their Declarations of Claims, to have an equitable lien on the Ship or Share mortgaged, with priority over the Mortgagee and subsequent charges.

And be it Enacted, That every Creditor who shall have filed a declaration of claim within the *Thirty* Days hereinbefore mentioned, after any such notice as shall, in respect of the debt in such declaration mentioned, or so much thereof as shall be owing, have, from and after the filing of such declaration, an equitable charge or lien on the Ship or Vessel to which such notice of transfer may relate, and on the proceeds of the sale thereof, to the extent and with such priority as hereinafter mentioned; (that is to say), in case such notice of transfer shall relate to the whole Ship or Vessel, then the whole of such debt shall be an equitable charge or lien on the whole of such Ship or Vessel, with priority over the security intended to be made by such transfer, and over every subsequent assignment or transfer of the same Ship or Vessel, or any share or shares thereof, or the equity of redemption thereof respectively, either absolutely or by way of mortgage or security, and over all claims whereof declarations shall be filed on the occasion of any subsequent transfer of the same Ship or Vessel, or any share or shares thereof; and in case the notice of transfer, on the occasion of which such declaration shall have been filed, shall relate only to a share or shares of a Ship or Vessel, then the Creditor who shall have filed such declaration shall be deemed to have an equitable charge or lien upon such share or shares for a portion of his debt, which shall bear the same proportion to the whole of such debt as the share or shares included in such transfer shall bear to the whole of such Ship or Vessel, with priority over the security intended to be made by such transfer, and over every subsequent assignment or transfer of the same share or shares, or of the equity of redemption thereof, either absolutely or by way of mortgage or security, and over all claims whereof declarations shall be made on the occasion of any subsequent notice of transfer by way of mortgage of the same share or shares; and full effect shall be given or allowed to the charge and lien aforesaid by all Courts of, and in all proceedings in Equity, Bankruptcy or Insolvency, and in all suits and proceedings whatsoever in the High Court of Admiralty, to the extent and with the priorities aforesaid: Provided always, That all Creditors whose declarations of claims shall be made and filed within the time hereinbefore limited, after one and the same notice of transfer, shall be equally entitled one with the other to the benefit of the charge and lien aforesaid, according to the amount of their respective debts, without any preference by reason of priority in the time of delivering their declarations, or on any other account whatever.

9. Declarations of Claim made on a Transfer of a Share or Shares, only to rank equally with Declarations of Claim filed on occasion of a subsequent Transfer of other and different Shares.

Provided always, and be it Enacted, That in case the notice of transfer, on the occasion of which any such declaration of claim under the provisions of this Act shall have been filed, shall relate only to a share or shares of a Ship or Vessel, and any subsequent notice of transfer by way of mortgage shall be given as to any other and different share or shares of the same Ship or Vessel, all such declarations of claim made in pursuance of this Act, under such prior notice of transfer of such first-mentioned share or shares, shall attach, for the purposes of this Act, upon such other and different share or shares, and create an equitable charge or lien thereon, in like manner as if they had been made under the notice of such subsequent transfer of such other and different share or shares, and so that, without prejudice to their priorities in respect to the share or shares included in such previous notice, they shall, as to such other and different share or shares, rank equally with the declarations first filed on the occasion of such subsequent notice of transfer thereof: Provided always, That no such transfer of any Ship, or of any share or shares in any Ship, shall in any way be affected by any declaration of claim made after the expiration of *Thirty* Days from any notice of transfer given in respect of such transfer.

10. In case the Mortgagee takes possession of the Ship, Creditors who have filed Declarations of Claim may apply to the Court of Admiralty in a summary way for a Warrant of Arrest; or in case of Sale, the Court to apply the proceeds according to the provisions of this Act.

And be it Enacted, That in all cases when any declaration or declarations of claim shall have been filed on the occasion of any such transfer as aforesaid, and any person to whom such transfer of any Ship or Vessel, or any share or shares thereof, shall be made, or any person claiming by, through or under him, or by any subsequent transfer or ssignment of the same Ship or Vessel, share or shares, either absolutely or by way of mortgage or security, or by any subsequent act, matter or proceeding whatsoever, shall take or obtain possession of any such Ship or Vessel, it shall and may be lawful for the High Court of Admiralty, upon the application in a summary way of the Creditors who shall have filed such declarations of claim as aforesaid, or any one or more of them whose claim or claims shall exceed the sum of   Pounds, to issue a warrant of arrest in order to restrain the sailing or departure of the said Ship or Vessel, or the sale thereof, and to compel the person so having obtained possession of the said Ship or Vessel to give such security as the said Court shall think fit under the circumstances; or in the event of the sale of the Ship or Vessel, to pay the proceeds of such sale into the said Court, subject to such claims, under such terms and conditions as the said Court shall think proper to impose; and the said Court shall and is hereby empowered, after deducting the necessary charges and expenses of the said sale, and the other costs, charges and expenses of the proceedings, and after satisfaction of the prior charges on such Ship or Vessel, if any there be, to apply the proceeds, in the first place, in or towards the payment of the several Creditors having made declarations of claims under the provisions of this Act, according to theirrespective priorities; and in the next place, in or towards the payment of the mortgage debts and other sums hereby postponed to such claims, according to their respective priorities, and to pay the residue (if any) to the Owner or Owners of the Ship or Vessel, share or shares, according to their rights and interests: Provided nevertheless, That in case the amount of the said claims, or any of the particulars thereof, or any matter in relation thereto, shall be disputed, the Court may and are hereby authorized to refer the matters in difference to be investigated by the of the said Court, and his decision as to the amount of claim shall in all such cases be final: Provided always, That nothing in this Act contained shall be taken to prevent any Creditor or Creditors from taking any other proceedings whatever for giving effect to his or their equitable charge or lien, if he or they shall so think fit.

11.
Proceedings in the Court of Admiralty not to be staid by reason of a Fiat of Bankruptcy issuing against the Mortgagor.

And be it Enacted, That no Fiat of Bankruptcy that may be issued against any person making such transfer as aforesaid, after the execution of any such transfer, shall in any manner affect any right or remedy, or any interest in the proceeds of such sale, that any person may be entitled to under the provisions of this Act, or in any manner defeat or affect the proceedings of the said Court of Admiralty; and the said Court of Admiralty may, notwithstanding such Fiat of Bankruptcy as aforesaid, proceed in the manner directed by this Act; and in case there shall not be sufficient to pay or satisfy the said persons who may have made such declarations of claim, or the said mortgagees or persons claiming under them as aforesaid, any such deficiency shall be deemed and taken to be a debt or debts proveable under such Fiat: Provided always, That nothing in this Act contained shall extend or be construed to extend to prejudice or affect any right, claim or remedy that any seaman may now be entitled to for the recovery of wages, or any right, claim or remedy that any person may now be entitled to in respect of any bottomry or respondentia bond, or the right, claim or remedy of any mortgagee, except only such mortgagees over whom priority is expressly given by this Act.

Rights saved of Seamen for Wages, and Claims on Bottomry and Respondentia Bonds.

12.
Creditors entitled to a lien under this Act may apply to the Commissioners under the Fiat for a Sale in like manner as Mortgagees.

And be it Enacted, That when any such Fiat of Bankruptcy shall have issued against the Owner or Owners of any Ship or Vessel, the share or shares, on which an equitable charge and lien shall have been created under the provisions of this Act, it shall be lawful for the Creditors entitled to the benefit of such charge and lien, or any of them, to apply to the Commissioners under the Fiat in order to direct a sale of such Ship, or of such share, or shares thereof, or of so much of such Ship, share or shares, subject to such equitable charge or lien as shall belong to the Bankrupt or Bankrupts, in like manner as a mortgagee or mortgagees may now do by the law or practice in Bankruptcy; and the Commissioners under such Fiat are hereby empowered to direct such sale in like manner as in other cases of mortgage, and to apply the proceeds, after payment of the expenses of such sale, according to the equities established by this Act; and in case the proceeds arising from such sale shall be insufficient to discharge the equitable charges and liens of the several Creditors, then the deficiency, or so much thereof as the Bankrupt or Bankrupts would be liable to contribute in respect of his or their share or shares of the Ship or Vessel shall be taken to be a debt or debts proveable under the Fiat.

In case of a deficiency, such deficiency to be a debt proveable under the Fiat.

13. Creditors proving under the Fiat not to be barred from proceeding against solvent Part Owners.

And be it Enacted, That no Creditor having made such declaration of claim as aforesaid shall be barred or prevented in any manner from proceeding against any solvent Part Owner or Part Owners of any Ship by reason of having made any proof or claim under any Fiat of Bankruptcy that may issue against any other Part Owner or Part Owners; but such sum as may be paid under such Fiat shall be deemed and taken to be pro tanto a satisfaction of such debt, and no Creditors shall, by reason of such declaration of claims, or any proceeding or act taken or done to give effect to the equitable charge or lien hereby given, be barred or prevented from taking all or any such proceedings, and using all such legal remedies whatsoever against the Owner or Owners of the Ship or Vessel, share or shares, on which such equitable charge or lien may be created or any other Part Owner or Part Owners, or the estates or effects of such Owner or Owners, Part Owner or Part Owners, as he might have taken or used if this Act had not been passed.

14. Act not to deprive Creditors of their remedies against Mortgagors or Owners.

And be it Enacted, That nothing in this Act contained shall affect or be construed to affect, limit or take away any remedy that any person making any declaration of claim under the provisions of this Act may now be entitled to against the Mortgagor or Mortgagors, Owner or Owners of any Ship, or any share or shares thereof, or any other person whatever, or to make or render any Mortgagee or Mortgagees of any Ship, or share or shares of any Ship, or any person claiming from or under him or them, or any creditor obtaining a charge or lien under the provisions of this Act, liable as Part Owner or Part Owners for the payment of any such debt or demand in respect of which any such declaration of claim may be made under the provisions of this Act.

15. Declaration of Claim may be withdrawn or delivered up on production of receipt.

And be it further Enacted, That when any debt or demand in respect of which a declaration of claim has been filed under the provisions of this Act, has been paid or otherwise satisfied, or in case the person who shall have filed such declaration shall be desirous of withdrawing the same, the Registering Officer shall and is hereby required, on the production of a stamped receipt for such debt or demand, or a request in writing that such declaration may be withdrawn, signed by the claimant or his agent, to deliver up to the party producing such receipt or request the declaration of claim filed in his Office of Registry in respect of such debt or demand, and shall, if required so to do, mark the corresponding entry relating to such debt or demand on the Bill of Sale or other instrument in writing by which the transfer was made as paid or withdrawn.

16.
Persons producing a false receipt guilty of a misdemeanor.

And be it Enacted, That any person who shall knowingly or wilfully send or produce, or cause or procure, permit or suffer to be sent or produced to any Collector or Comptroller of Customs or Registering Officer of any Port in the United Kingdom, or any person or persons acting in his or their behalf, any false, counterfeit, forged or untrue receipt, or any false, counterfeit, forged or untrue request in writing concerning any claim, shall be deemed guilty of a *Misdemeanor.*

17.
Acts required to be done by Registering Officer may be done by the Collector or Comptroller of Customs.

And be it Enacted, That all entries by this Act required to be made, or any other duty, act, matter or thing required to be done by the Registering Officer of any Port, may be made or done either by the Collector or the Comptroller of Customs of such Port or other person authorized and required to make Registry, or grant Certificates of Registry under the provisions of the "Act for the registering of British Vessels;" and all notices, declarations of claims and other matters or things required to be sent, produced, delivered or given to any Registering Officer of any Port, may be sent, produced, delivered or given either to the Collector or the Comptroller of Customs of such Port, or other person authorized and required as aforesaid.

18.
Copies of Entries to be evidence.

And be it Enacted, That all copies of any entry or entries, notice or notices, declarations of claim and other documents required by this Act to be made, filed or kept by any Registering Officer of any Port, if certified under the hand of such Registering Officer to be a true copy, shall, on proof of the handwriting of such Registering Officer, be received in evidence, without the production of the original, in all cases where it may be necessary to prove the same; and a copy of any such entry, notice, declarations of claim or other document as aforesaid, shall, upon being proved to be a true copy, be in like manner received in evidence, although not so certified as aforesaid.

19.
Commencement of Act.

And be it Enacted, That this Act shall commence and take effect from and after the day of in the year of our Lord .

20.
Act may be altered this Session.

And be it further Enacted, That this Act may be altered, amended or repealed by any Act to be passed in this Session of Parliament.

SCHEDULES

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SCHEDULES to which this ACT refers.

SCHEDULE (A.)

FORM of Notice to be given to the Collector of the Port where Ship is registered, by the Mortgagor.

To the Collector of Customs at the Port of

I [*or*, We, *A. B.*, *or*, *A. B.* and *C. D.*], of [*residence and description of Mortgagor or Mortgagors*], Owner or Owners of the Ship called [*name of Ship, or, if Part Owner only, of* shares in the Ship called [*name of Ship*] registered at the Port of [*name of Port of Registry*], and now lying in the Port of [*name of Port where the Ship is at the time of notice, or if the Ship should not be in any Port of the United Kingdom*], late outfitted at the Port of [*state the last Port of Outfit in the United Kingdom*], and now on her voyage from to , do hereby give notice, that I [*or*, we] intend, thirty days after the date of this notice, to cause a Bill of Sale [*or*, Assignment by way of mortgage, *according to the nature of the deed or instrument, in writing*] of the said Ship [*or, if of shares only, the number of shares intended to be transferred*] to be entered in the book of registry.

Dated this day of in the year of our Lord

(signed) *A. B.* & *C. D.* } Name [*or*, Names] of Mortgagor.

SCHEDULE (B.)

FORM of a Declaration of Claim.

I, *A. B.*, [*or*, *in case of partnership*, *A. B.*, for myself and partner, *or*, partners] of [*residence and description*] do solemnly and sincerely Declare, That I have a true claim against the Owner [*or*, Owners] of the Ship [*name of Ship*,] as hereinafter specified, to

	£.	s.	d.
To supplies or materials furnished to the said Ship, on or about the day of , in the year of our Lord [*or*, between the day of in the year of our Lord and the day of , in the year of our Lord] - - - - - - - -			
To repairs done to the said Ship [*with dates, as before*] - -			
To work and labour done on the said Ship [*or, otherwise, according to the nature of the claim*] - - - - - - -			
Total - - -			

And I make this solemn Declaration conscientiously, believing the same to be true, and by virtue of the provisions of an Act to repeal an Act of the present Session of Parliament, intituled, " An Act for the more effectual Suppression of Oaths and Affirmations taken and made in various Departments of the State, and to substitute Declarations

in

in lieu thereof, and for the more entire Suppression of Voluntary and Extra-judicial Oaths and Affidavits; and to make other Provisions for the Abolition of unnecessary Oaths."

(signed) *C. D.*

Taken before me,
E. F.,
A Justice of the Peace for [*or*, Notary
Public, *or*, *as the case may be*], at
[*place*] on the day of
in the year of our Lord .

To the Collector of Customs,
at [*the Port of Registry.*]

SCHEDULE (C.)

INDORSEMENT to be made by the COLLECTOR or COMPTROLLER of CUSTOMS on the Bill of Sale or other Instrument effecting the Transfer by way of Mortgage.

THIS Bill of Sale [*or*, Assignment, *according to the nature of the instrument*] is made subject to the Declaration [*or, if more than one*, several Declarations] of Claim filed with respect to the Ship [*name of Ship*], in the Office of Registry at the Port of [*name of Port*], and which amount in the whole to the sum of

(signed) *A. B.*, Collector, [*or*,
C. D., Comptroller] of Customs.

Mortgages of Ships.

A

BILL

To amend the Law relating to Mortgages of Ships and Vessels.

(Prepared and brought in by Mr. George Frederick Young and Dr. Lushington.)

Ordered, by The House of Commons, *to be Printed*, 28 *June* 1837.

448.

15 *February* 1837.—7 Will. IV.

A

BILL

To explain and amend an Act of the Seventh Year of his late Majesty King George the Fourth, to provide for improving and rebuilding Shire Halls, County Halls, and other Buildings for holding the Assizes and Grand Sessions, and also Judges' Lodgings, throughout England and Wales.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble:

WHEREAS by an Act passed in the seventh year of the reign of his late Majesty King George the Fourth, intituled, "An Act to provide for improving and rebuilding Shire Halls, County Halls, and other Buildings for holding the Assizes and Grand Sessions, and also Judges' Lodgings, throughout England and Wales," it is amongst other things enacted, that whenever it shall appear to the Justices at any General or Quarter Sessions of the Peace to be holden in any county, riding or division in England or Wales, by any Presentment to be made by the Grand Jury at any Assizes or Sesssion of Gaol Delivery or Session of the Peace to be holden for any such county, riding or division, or by any Presentment to be at any time made by any two or more Justices of the Peace in and for such county, riding or division, and laid before the Justices at any such General or Quarter Sessions of the Peace, that any Shire Hall, County Hall or other building accustomably made use of for holding the Assizes or Sessions of the Peace, shall be insufficient, inconvenient, deficient or in want of repair or improvement, or that there is a necessity for the erection of a new Shire Hall, County Hall or other building, it shall be lawful for the Justices assembled at the General or Quarter Sessions at which such Presentment shall be laid before such Justices in manner therein mentioned, to take such measures, either by contract or otherwise, as shall appear to them to be requisite and proper for the altering, enlarging, repairing or improving of any Shire Hall, County Hall or other building as aforesaid, or for the pulling down of any such Shire Hall, County Hall or other building, or any part thereof, and for the building of any new Shire Hall, County Hall or other building, or any part thereof, in lieu of any building or any part of any building which shall be so pulled down:

And whereas the Assizes and Sessions of the Peace for divers counties, ridings and divisions have been usually holden in the Town Hall of some city or town, and not in any Shire Hall, County Hall or other building belonging to such county, riding or division, and doubts have been entertained whether, under the provisions of the said Act, the Justices have power under any such Presentment as aforesaid to take measures for the building of any new Shire Hall or County Hall in those cases in which such Assizes or Sessions have heretofore been usually holden in some Town Hall or other building not being a Shire Hall or County Hall or other building belonging to such county, riding or division; and it is expedient that such doubts should be removed;

Act 7 Geo. 4, to extend to cases of building or repairing new Shire Halls and County Halls.

BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT all and singular the powers, authorities and provisions in the said Act contained, relative to the building and repairing of any Shire Hall or County Hall, in lieu of any former Shire Hall or County Hall pulled down under the provisions of the said Act, and to the purchasing any houses, lands, tenements or hereditaments for that purpose, and to defraying the expenses of any such building, and to raising money for that purpose, shall be deemed and taken to apply to and authorize the building and repairing of a new Shire Hall or County Hall, in those cases in which such Assizes or Sessions as aforesaid have usually been holden in some Town Hall or other building not belonging to and not being the property of such county, riding or division; and the purchasing any houses, lands, tenements or hereditaments for that purpose, and the defraying the expenses of any such building, and the raising money for that purpose, in the same way as if such Shire Hall or County Hall had been built in lieu of some Shire Hall or County Hall pulled down under the provisions of the said Act, and all matters and things to be done in any new Shire Hall or County Hall to be built under the powers of this Act, shall be as good, valid and effectual, to all intents and purposes, as if the same had been done in any Shire Hall or County Hall built under the powers of the said recited Act: Provided always, That no Shire Hall or Town Hall to be erected under the provisions of this Act, shall be built at any place distant more than *One Mile* from the Town Hall or other building in which such Assizes or Sessions have been heretofore usually holden.

Shire Halls.

A

BILL

To explain and amend an Act of the Seventh Year of his late Majesty King GEORGE the Fourth, to provide for improving and rebuilding Shire Halls, County Halls, and other Buildings for holding the Assizes and Grand Sessions, and also Judges' Lodgings, throughout England and Wales.

(Prepared and brought in by
Mr. Solicitor General and Mr. Attorney General.)

Ordered, by The House of Commons, *to be Printed,*
15 *February* 1837.

42.

8 *May* 1837.—7 WILL. IV.

A

B I L L

[AS AMENDED BY THE COMMITTEE]

To explain and amend an Act of the Seventh Year of his late Majesty King GEORGE the Fourth, to provide for improving and rebuilding Shire Halls, County Halls, and other Buildings for holding the Assizes and Grand Sessions, and also Judges' Lodgings, throughout *England* and *Wales*.

[N.B.—*The Clauses marked* (A.), (B.), (C.) *and* (D.) *were added by the Committee.*]

WHEREAS by an Act passed in the seventh year of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act to provide for improving and rebuilding Shire Halls, County Halls, and other Buildings for holding the Assizes and Grand Sessions, and also Judges' Lodgings, throughout *England* and *Wales*," it is amongst other things enacted, that whenever it shall appear to the Justices at any General or Quarter Sessions of the Peace to be holden in any county, riding or division in *England* or *Wales*, by any Presentment to be made by the Grand Jury at any Assizes or Sesssion of Gaol Delivery or Session of the Peace to be holden for any such county, riding or division, or by any Presentment to be at any time made by any two or more Justices of the Peace in and for such county, riding or division, and laid before the Justices at any such General or Quarter Sessions of the Peace, that any Shire Hall, County Hall or other building accustomably made use of for holding the Assizes or Sessions of the Peace, shall be insufficient, inconvenient, deficient or in want of repair or improvement, or that there is a necessity for the erection of a new Shire Hall, County Hall or other building, it shall be lawful for the Justices assembled at the General or Quarter Sessions at Preamble:

at which such Presentment shall be laid before such Justices in manner therein mentioned, to take such measures, either by contract or otherwise, as shall appear to them to be requisite and proper for the altering, enlarging, repairing or improving of any Shire Hall, County Hall or other building as aforesaid, or for the pulling down of any such Shire Hall, County Hall or other building, or any part thereof, and for the building of any new Shire Hall, County Hall or other building, or any part thereof, in lieu of any building or any part of any building which shall be so pulled down:

And whereas the Assizes and Sessions of the Peace for divers counties, ridings and divisions have been usually holden in the Town Hall of some city or town, or in some building belonging jointly to such county, riding or division, and to the city or town wherein the same is situate, and not in any Shire Hall, County Hall or other building belonging exclusively to such county, riding or division, and doubts have been entertained whether, under the provisions of the said Act, the Justices have power under any such Presentment as aforesaid to take measures for the building, altering or repairing of any Shire Hall or County Hall, or building used or to be used partly as a Shire Hall and partly as a Town Hall, in those cases in which such Assizes or Sessions have heretofore been usually holden in some Town Hall or other building not being a Shire Hall or County Hall or other building belonging exclusively to such county, riding or division; and it is expedient that such doubts should be removed:

And whereas by an Act passed in the fourth year of His present Majesty's reign, intituled, "An Act for the Appointment of convenient Places for the holding of Assizes in *England* and *Wales*," it is amongst other things enacted, that His Majesty, by and with the advice of His Most Honourable Privy Council, shall have power from time to time to order and direct at what place or places in any county of *England* or *Wales* the Assizes or Sessions under the commissions of gaol delivery and other commissions for the despatch of criminal and civil business shall be holden, and to order and direct such Assizes and Sessions for the despatch of criminal and civil business to be holden at more than one place in the same county, on the same circuit; and it is expedient that the provisions contained in the said Act of the seventh year of the reign of His late Majesty King George the Fourth should be extended to cases where it may be necessary to provide Shire Halls for holding Assizes in places at which the same may be holden under the provisions of the said Act of the fourth year of the reign of his present Majesty:

And whereas it is also expedient that the Justices of the Peace of counties, ridings or divisions in *England* and *Wales* should be empowered to enter into contracts with the owners of Town Halls or other buildings, for the use and occupation of such Town Halls or other buildings, or part thereof, for the holding of Assizes and Sessions therein, and for other county business, and for the repair, alteration or improvement of such Town Halls or other buildings;

1. Act 7 Geo. 4, to extend to cases of building or repairing new Shire Halls and County Halls.

Be it therefore Enacted, by The KING's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT all and singular the powers, authorities and provisions in the said Act of the seventh year of the reign of his late Majesty King George the Third contained, relative to the building, altering and repairing of any Shire Hall or County Hall, in lieu of any former Shire Hall or County Hall pulled down under the provisions of the said Act, and to the purchasing any houses, lands, tenements or hereditaments for that purpose, and to defraying the expenses of any such building, and to raising money for that purpose, shall be deemed and taken to apply to and authorize the building, altering and repairing of any Shire Hall or County Hall, or building used or to be used partly as a Shire Hall and partly as a Town Hall, in those cases in which such Assizes or Sessions as aforesaid have usually been holden in some Town Hall or other building not belonging exclusively to such county, riding or division, and whether such Town Hall or other building shall or shall not be pulled down; and the purchasing any houses, lands, tenements or hereditaments for that purpose, and the defraying the expenses of any such building, and the raising money for that purpose, in the same way as if such Shire Hall, County Hall or building used or to be used partly as a Shire Hall and partly as a Town Hall, had been built in lieu of some Shire Hall or County Hall pulled down under the provisions of the said last-mentioned Act.

2. Clause (A.) Where place for holding Assize is changed, Justices empowered to take necessary steps for providing the accommodation necessary.

And be it Enacted, That in all cases in which by virtue of any Order of His Majesty in Council, made or to be made under the authority of the said Act of the fourth year of the reign of His present Majesty, the Assizes for any county, riding or division have been or shall hereafter be directed to be holden in any city, town or place in which the same have not usually been holden, either in addition to or in substitution for the place at which the same have usually been holden for such county, riding or division, the provisions contained in the said Act of the seventh year of the reign of His late Majesty King George the Fourth shall be deemed and taken to authorize and empower the Justices in Sessions assembled to take all necessary measures, by contract or otherwise, for purchasing in such city, town or place at which such Assizes shall have been or may hereafter be directed to be holden, any building to be converted into or used as a new Shire Hall or County Hall, or for purchasing in such city, town or place, any ground, and erecting thereon any new Shire Hall or County Hall, and for repairing and altering from time to time any such Shire Hall, County Hall or building, in the same manner, and subject to the same restrictions and regulations, and with the same powers and authorities as in the said last-mentioned Act are contained with reference to the County Halls or Shire Halls therein mentioned: Provided always, That nothing herein or in the said recited Act contained shall be deemed or taken to restrict the said Justices from purchasing any such Shire Hall or County Hall, or causing the same to be built in any place which to them may seem most convenient.

3. Clause (B.) Clerks of Peace for Counties may contract for use of Buildings for holding Assizes and Sessions.

And be it further Enacted, That it shall be lawful for the Clerk of the Peace for the time being of any county, riding or division, by order of the Justices of the Peace of such county, riding or division in General or Quarter Sessions assembled, by writing under his hand to contract, on behalf of such county, riding or division, with any person or persons, bodies politic, corporate or collegiate, being the owner or owners of any Town Hall or other building, for the use and occupation of such Town Hall or other building, or any part or portion thereof, for holding the Assizes and Sessions of such county, riding or division therein, and for other public purposes of such county, riding or division, upon such terms and subject to such annual rent, and to such conditions as to the repairs, alterations or improvements of such Halls or other buildings, or any part or portion thereof, and for furnishing the same with necessary and convenient furniture, matters and things, or otherwise as may be agreed upon between such Clerk of the Peace, on behalf of such county, riding or division, and such owner or owners as aforesaid; and all such contracts shall be binding and conclusive upon the several parties thereto for such period of time as shall be specified therein; and such annual rent, and the costs and charges of such alterations, repairs, improvements and furniture, or so much thereof as shall by such contract be agreed to be paid by the said county, riding or division, shall be defrayed out of the general rates of such county, riding or division, in like manner as the other general expenses of such county, riding or division are by law now directed to be paid: Provided always, That no such order of Sessions shall be made unless due notice of the intention to propose the same shall have been given Twice at least in some Newspaper usually circulated in such county, riding or division at least Fourteen Days previously to the holding of the Sessions at which such order shall be made: Provided also, That no Clerk of the Peace shall be personally liable by virtue of any such contract.

4. Clause (C.) All matters transacted in Shire Halls provided under Provisions of this Act declared valid.

And be it Enacted, That all matters and things to be done and transacted in any Shire Hall, County Hall or other building to be built or hired under the powers of this Act, shall be as good, valid and effectual to all intents and purposes as if the same had been done and transacted in any Shire Hall built under the powers of the said Act of the seventh year of the reign of his late Majesty King George the Fourth.

5. Clause (D.) Act may be altered during present Session.

And be it Enacted, That this Act may be altered or repealed by any other Act in this present Session of Parliament.

Shire Halls.

A

B I L L

[AS AMENDED BY THE COMMITTEE]

To explain and amend an Act of the Seventh Year of his late Majesty King George the Fourth, to provide for improving and rebuilding Shire Halls, County Halls, and other Buildings for holding the Assizes and Grand Sessions, and also Judges' Lodgings, throughout *England* and *Wales*.

(Prepared and brought in by
Mr. Solicitor General and Mr. Attorney General.)

Ordered, by The House of Commons, *to be Printed,*
8 *May* 1837.

282.

4 *July* 1837.—1 Vict.

A

BILL

To authorize Her Majesty to carry into immediate execution, by Orders in Council, any Treaties, Conventions or Stipulations made with any Foreign Power or State for the Suppression of the Slave Trade.

[Note.—The Word printed in *Italic* is proposed to be inserted in the Committee.]

WHEREAS the Two Houses of Parliament did, by their Addresses of June the sixth One thousand eight hundred and six, June the twenty-seventh One thousand eight hundred and fourteen, July the ninth One thousand eight hundred and seventeen, July the seventh One thousand eight hundred and nineteen, and May the ninth One thousand eight hundred and thirty-five, request their late most Gracious Majesties King George the Third and King William the Fourth to conclude Treaties for the effectual suppression of the Slave Trade: Preamble.

And whereas Her Majesty is at the present time engaged in negociation with certain Foreign Powers for the purpose of concluding such Treaties with them:

And whereas it may happen that some such Treaties may be concluded during the time that Parliament is not sitting:

And whereas in such case delay would take place in carrying into execution the stipulations of such Treaties, and much crime might be perpetrated during the interval that might elapse between the ratification of such Treaties and the time when Parliament might pass Acts authorizing the Crown to carry the same into execution:

And whereas it would materially tend to further the accomplishment of the objects which the Two Houses of Parliament had in view, when they addressed their said late Majesties as aforesaid, if the Crown were to be empowered to carry such Treaties into immediate execution;

1.
Her Majesty may, by Order in Council, carry Treaties into effect.

BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT it shall be lawful for Her Majesty, by any Order or Orders in Council, to direct that such Treaties or Conventions, and all stipulations contained therein, and also all additional stipulations to any former Treaties or Conventions which Her Majesty may have concluded or may hereafter conclude with any Foreign Power or State for the more effectual suppression of the Slave Trade, shall be carried into immediate execution, and for that purpose to declare and direct in such Orders of Council, that all searches, examinations, detentions, seizures, condemnations and sales of ships or vessels detained, seized or captured, for any violations of the provision of any such Treaties, Conventions or Stipulations shall be legal, and also by any such Order or Orders in Council to establish tribunals for the trying and deciding all questions which may arise under such Treaties, Conventions or Stipulations, and for the condemnation of any such vessels as aforesaid, and for punishing the violation of any such Treaties, Conventions or Stipulations, and for adjudging and enforcing the payment of any penalties for any such violation, or to authorize any tribunals which may have been heretofore established to act in relation to the enforcing such Treaties, Conventions or Stipulations aforesaid; and also to authorize the payment of such bounties as are allowed in any Act or Acts of Parliament now in force for the suppression of the Slave Trade, to the persons detaining, seizing or capturing any such vessels; and it shall be lawful for Her Majesty in any such Order or Orders in Council, to declare that all clauses and provisions, powers and authorities contained in and all penalties and forfeitures imposed by any Act or Acts of Parliament now in force for the carrying into execution or giving effect to any Treaty, Convention or Stipulation heretofore made with any Foreign Power or State, or in any other Act or Acts of Parliament in force for the suppression of the Slave Trade as shall be specified or referred to in any such Order or Orders in Council shall be applied and put in force for the purpose of carrying into immediate execution any such Treaty, Convention or additional Stipulation first above mentioned; and upon the issuing of any such

Order or Orders in Council all the directions, powers and authorities contained therein, and all clauses, provisions, powers, authorities, penalties and forfeitures referred to in any such Order or Orders and contained in any such Act or Acts of Parliament aforesaid, shall have the same and like force and effect; and all acts, matters and things done under the authority thereof, and all acts and judgments of any tribunals under the same, shall be valid and effectual, as fully to all intents and purposes as if the same had been enacted in an Act of Parliament.

2. Continuance.

And be it Enacted, That this Act, and all Orders in Council issued under the authority thereof, shall continue in force until the expiration of *Six* Months after the commencement of the next Session of Parliament.

Slave Trade Treaties.

A

B I L L

To authorize Her Majesty to carry into immediate execution, by Orders in Council, any Treaties, Conventions or Stipulations made with any Foreign Power or State for the Suppression of the Slave Trade.

(Prepared and brought in by
Lord Viscount Palmerston and Mr. Chancellor of the Exchequer.)

Ordered, by The House of Commons, *to be Printed,*
4 *July* 1837.

475.

2 *June* 1837.—7 Will. IV.

A
BILL

To enable the Recorder in certain Boroughs to hold a Court for the Recovery of Small Debts.

[Note.—The Words and Figures printed in *Italics* are proposed to be inserted in the Committee.]

Preamble.

WHEREAS it is expedient to provide for the more cheap and expeditious recovery of Small Debts; **BE it therefore Enacted**, by The KING's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the Council of any Borough in and for which a separate Court of Quarter Sessions of the Peace is or shall be holden by virtue of any grant made or to be made by His Majesty under and by virtue of an Act passed in the fifth and sixth years of His present Majesty's reign, intituled, "An Act to provide for the Regulation of Municipal Corporations in England and Wales," which shall be desirous that a Court for the Recovery of Small Debts in a summary way shall be holden in such Borough, shall signify the same by Petition to His Majesty in Council, setting forth the grounds of the application, what salary is already paid to the Recorder, and what additional salary they are willing to pay him in that behalf, and stating whether there is any Court of Request, Court of Conscience or other Court for the recovery of Small Debts within the said Borough, and if so, referring to the Act or Acts by which the same is established, regulated or in anywise affected; and thereupon it shall be lawful for His Majesty, if he shall think fit to comply with the request of the said Petition, to grant that a Court for the recovery of Small Debts in a summary way shall thenceforth be holden in the said Borough, and such Court shall be holden accordingly, and shall be called the Court of Requests of the said Borough: Provided always, That if the Council of such Borough shall be desirous that the said Court of

1.
King may grant a Court of Requests on petition of Council.

To be held oftener than the Sessions, if required.

Requests so sought to be established shall be holden at other and more frequent times than the Court of Sessions of the Peace in and for the same Borough, they shall signify the same in such Petition as aforesaid, or in some subsequent Petition, stating the times at which they wish the said Court of Requests to be holden, and the rate of salary which they are willing to pay to the Deputy Judge of such Court in that behalf; and thereupon it shall be lawful for His Majesty, if he shall so think fit, to order and require that the said Court of Requests shall be holden as well at all such and the same times as the Court of Sessions of the Peace in and for the same Borough as at such other and more frequent times as his Majesty shall be pleased to direct.

2. Recorder sole Judge.

And be it Enacted, That the Recorder of every Borough in which any Court of Requests shall be holden, according to the provisions of this Act, shall hold the same at all such and the same times as any Court of Sessions of the Peace shall be holden in and for the same Borough, and at such other and more frequent times, if any, as the said Recorder in his discretion may think fit, or as His Majesty shall think fit to direct; and such Recorder shall sit as the sole Judge of the said Court of Requests, and shall have, exercise and enjoy, as such Judge, the same powers, privileges and immunities as the Judge of any Court of Record, and shall have the power to fine or commit for any contempt of Court as fully as any Court of Record; and that every such Recorder from time to time may make rules for regulating as well the practice of such Court over which he presides as the keeping of the accounts and the registering of the proceedings thereof, and for regulating the duties of the Clerk and other officers of the said Court, and the management and practice of the office of such Clerk; but so that no such rules shall be of force until they shall have been allowed and confirmed by one or more Judges of the superior Courts of Common Law at Westminster.

3. Power to appoint a deputy Judge.

And be it Enacted, That in every Borough in which His Majesty shall be pleased to direct that such Court of Requests shall be holden at any other and more frequent times than the Court of Sessions of the Peace in and for the same Borough, it shall be lawful for the Recorder of the said Borough, and he is hereby empowered under his hand and seal, to appoint a deputy, being a Barrister of *Five* Years standing, to act for him in his absence; and such deputy shall, in the absence of the Recorder, have all such and the same powers as are by this Act conferred on the Recorder, and shall be styled the Deputy Judge of the Court of Requests of the said Borough; and in such case it shall be lawful for His Majesty to direct that a salary at a rate not exceeding that stated in the petition of the Council shall be paid to such Deputy Judge by the Treasurer of such Borough out of the

Borough

Recorder to hold the Court as often as the Sessions.

Borough Fund: Provided nevertheless, That the Recorder of every Borough in which a Court of Requests shall be holden according to the provisions of this Act, shall and is hereby required, except in the case of sickness or unavoidable absence, to hold the said Court at all such and the same times as any Court of Sessions of the Peace shall be holden in and for the same Borough: Provided also, That in the case of sickness or unavoidable absence of such Recorder, in case there shall be no such Deputy Judge, or of such Deputy Judge, such Recorder shall be empowered under his hand and seal, with the consent of the Council of such Borough, to appoint a fit person, being a Barrister of *Five* Years standing, to act as Judge at the Court of Requests then next to be holden, and no longer or otherwise.

4. Mayor may open and adjourn the Court.

And be it Enacted, That in the absence of the Recorder and of the Deputy Judge of the Court of Requests, and of any other Deputy so appointed as last aforesaid to hold the said Court, the Mayor shall be authorized and required, at the proper times appointed, for the holding of such Court of Requests in, to open the said Court, and to adjourn over the holding of the same until such further day as such Mayor then and there and so from time to time shall cause to be proclaimed: Provided nevertheless, That nothing in this Act contained shall authorize or require any such Mayor to sit as a Judge of the said Court for the hearing or determination of any action, or to do any other act in the character of a Judge of such Court, save only in opening and adjourning the same.

5. To be held in Town Hall.

And be it Enacted, That every such Court of Requests shall be holden in the Town Hall of such Borough or other convenient place within the said Borough to be provided by the Council, and every such place shall be deemed an open Court.

6. Council to appoint Clerk and Officers.

And be it Enacted, That the Council of every Borough in which there shall be holden a Court of Requests under the provisions of this Act shall appoint a Clerk of such Court, and such other Officers as are necessary for carrying on the business and executing the process of such Court, and may from time to time discontinue the appointment of such Officers as shall appear to them not necessary to be continued, and shall take such security for the due execution of his office by any such Clerk or Officer as the said Council shall think fit, and shall order to be paid to the Clerk and to every Officer of the Court of Requests such salary or allowance as the said Council shall think reasonable; and in case of a vacancy in any such office as aforesaid by the death, resignation or removal of any such Clerk or Officer or otherwise, the Council of such Borough may appoint another fit person in the place of the person so making such vacancy: Provided that it shall not be lawful for the said Council to appoint as such Clerk any Alderman or Councillor of such Borough, or any person being

Treasurer or Auditor of such Borough; and that every such Clerk who shall be elected to the office of Alderman, Councillor or Auditor, shall be exempted from accepting or serving the same office, if he shall claim such exemption within *Five* Days after notice of his election: Provided, That if being so elected he does not claim such exemption, or if he accepts the office of Treasurer, he shall be deemed to have vacated his office as such Clerk of the Court of Requests.

7.
Duty of Clerk.

And be it Enacted, That the Clerk of the Court shall and he is hereby required to make out and sign his name to all Summonses, Subpœnas, Notices, Precepts and Warrants, and all other Process whatsoever of the said Court, and to deliver the same so made out and signed to the Officers of the Court, and likewise to register in a book or books, to be provided by the Council of the said Borough for that purpose, all Judgments, Orders, Rules and Proceedings of the said Court, and to do all such acts, matters and things as are required to be done by such Clerk by virtue of this Act, or by virtue of any rule of Court to be made by virtue of this Act: Provided always, that every Summons, Subpœna, Precept of Execution and Warrant of Commitment so issued as aforesaid shall be signed by the Recorder, or in his absence by the Mayor of the said Borough, before the same is served or executed; and every Summons, Subpœna, Notice, Precept and Warrant, or other Process which shall be duly signed according to the provisions of this Act, shall be received as evidence in all Courts whatsoever, without proof of the signature or official character of the person or persons appearing to have signed the same; and no such Summons, Subpœna, Precept, Warrant, Notice or other Process shall be valid, or have any force or effect, unless the same shall be so signed according to the provisions of this Act.

Process how to be signed.

8.
Duty of Officers.

And be it Enacted, That the Officers of every such Court of Requests shall and they are hereby required to execute all such Precepts and Warrants as aforesaid, and to serve all such Summonses, Subpœnas and Notices, and other Process as aforesaid, and to account for and pay over all sums of money paid to or received by them for any Suitor of the said Court, and to do and perform all such other acts, matters and things as may be required to be done by them respectively by virtue of this Act, or by virtue of any rule of Court to be made in pursuance of this Act.

9.
Mode of serving Process, &c.

And be it Enacted, That any such Officer to whom any such Summons, Subpœna or Notice as aforesaid shall have been delivered, shall duly serve the same by delivering a copy thereof to the party to whom the same shall be directed, or by delivering such copy at the party's usual place of abode to some inmate thereat, and explaining the purport thereof to such inmate: Provided, That every such Summons and Notice shall be served and every such Precept and Warrant shall be executed within the Borough and not elsewhere, except as hereinafter contained.

10. Officers responsible.

And be it Enacted, That if any Officer of any such Court of Requests having received any sum of money for or on behalf of any Suitor of the said Court, shall refuse or willfully neglect duly to account for the same to the Clerk of the Court, or being employed to serve any Precept of Execution shall by neglect or connivance cause or suffer the goods of the party against whom such Execution shall be awarded to be carried away, secreted or otherwise disposed of, so that such Execution shall not have its due effect, it shall be lawful for the Recorder of such Borough, upon proof thereof made on oath, to order such Officer to pay over any sum which he shall have so as aforesaid refused or neglected to account for, or any sum for which such Execution was so awarded as aforesaid, or such part of any such sum as the said Recorder may think proper, to the party aggrieved, and every such Court of Requests shall have power to enforce the payment of any sum so ordered to be paid as aforesaid, by the same ways and means as are by this Act provided for the recovery of any debt.

11. Fine on Officers.

And be it Enacted, That if any such Officer shall so refuse or neglect to account for any sum of money which he shall so have received as aforesaid, or to account for and pay over any fee which he shall receive as such Officer, except such fees as he is by this Act authorized to retain, or shall be guilty of such neglect or connivance with respect to any Precept of Execution as aforesaid, or, being employed to execute any Warrant of Commitment, shall by neglect or connivance cause or suffer the person against whom such Warrant was issued to escape or abscond, or shall demand or take as such Officer any sum of money, gratuity or fee not authorized by this Act, or shall neglect or refuse to serve or execute any Summons, Subpœna, Notice, Order, Precept, Warrant or other Process of the Court which shall be delivered to him, or shall in any way howsoever refuse or neglect to perform his duty as such Officer, or shall in any wise act contrary to the provisions of this Act, or in disobedience of any rule of Court made in pursuance of this Act, it shall be lawful for the Recorder in every such case to impose any fine for every such offence, not exceeding *Ten* Pounds; and if any person so offending shall not forthwith pay into Court the fine so imposed upon him, it shall be lawful for the Court to order such person to be apprehended by any of the Officers of Court and committed to prison, there to remain for any space of time not exceeding *Three* Months, unless such fine shall be sooner paid.

12. Officers may be dismissed.

And be it Enacted, That it shall be lawful for the Recorder to dismiss the Clerk, or any Officer of any such Court of Requests, upon proof being given on oath, to the satisfaction of such Recorder, of the misbehaviour or breach of duty of such Clerk or Officer, whether a fine shall or shall not be imposed or authorized to be imposed for the same, and thereupon the Council of such Borough is hereby required to appoint another fit person to be Clerk or Officer in the place of the person so dismissed.

13.
Venue, the proceeding against Persons acting under this Act.

Notice of Action.

General issue.

Tender of amends, &c.

And for the protection of persons acting in the execution of this Act be it Enacted, That all actions and prosecutions to be commenced against any person for any thing done in pursuance of this Act shall be laid and tried in the County where the fact was committed, and shall be commenced within *Six* calendar Months after the fact committed, and not otherwise; and notice in writing of such action, and of the cause thereof, shall be given to the Defendant *One* calendar Month at least before the commencement of the action, and in any such action the Defendant may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon, and no Plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought by or on behalf of the Defendant; and if a verdict shall pass for the Defendant, or the Plaintiff shall become nonsuit, or discontinue any such action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the Plaintiff, the Defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any Defendant hath by law in other cases.

14.
Table of Fees.

And be it Enacted, That the Council of every Borough in which any such Court of Requests shall be holden shall and they are hereby required to make and settle a table of the fees which shall be taken by the Clerk and Officers of such Court, and such table of fees shall be submitted to one of His Majesty's Principal Secretaries of State, and when such table of fees shall be confirmed and allowed by such Secretary of State, either as such table shall have been submitted to him, or with such alterations, additions or abatements as he shall think proper, the fees therein mentioned may henceforth be lawfully taken by the said Clerk and Officers respectively; and it shall be lawful for the Council of such Borough from time to time to make a new table of fees to be taken instead of the fees contained in the table which shall have been made as aforesaid, which new table shall be confirmed and allowed in the manner hereinbefore mentioned, otherwise the same shall be of no validity, and that until a table of fees so to be taken in any such Borough shall have been made and confirmed as aforesaid, it shall be lawful for such Clerk to take the fees enumerated in the Schedule to this Act annexed.

And

15. Table of Fees hung up in Court.

And be it Enacted, That the Clerk of every such Court of Requests shall cause a true copy of the table of fees in force for the time being to be hung up in a conspicuous place in the said court.

16. Clerk to account.

And be it Enacted, That no Officer shall retain any fee for his own use, except such fee as shall be taken in respect of any distress, according to the provisions hereinafter contained, and the Clerk of the Court shall be answerable for every fee which shall be received, except such fees so as aforesaid taken in respect of any distress; and the said Clerk shall on Day in every year during the continuance of his office, and within *Three* Months after the continuance of his office, at the least once in every *Six* Months, make out and lay before the Council of the Borough an account in writing of all the fees for which he shall so become answerable as aforesaid, and likewise an account in writing of all the sums of money paid into Court or otherwise received, and of the sums of money taken out of Court by the suitors, so that the surplus remaining in the hands of the Clerk, and belonging to the said suitors, may clearly appear.

17. Clerk of Court to pay Monies over to the Treasurer of the Borough.

And be it Enacted, That within *Two* Days after the delivery of any such account as aforesaid, the Clerk of the Court shall pay over to the Treasurer of the Borough all the fees so taken and accounted for as aforesaid, and the same shall be carried to the account of the Borough Fund, and shall likewise pay over to such Treasurer the surplus hereinbefore mentioned belonging to the suitors of the Court, or such aliquot part thereof as the Recorder shall direct by rule of Court, and the same shall be carried to a separate account, to be called the "Account of the Suitors' Fund."

18. Account of Suitors' Fund to be made out annually.

And be it Enacted, That in such month in every year as the Recorder shall direct by rule of Court, the Clerk of every Court of Requests shall and he is hereby required to make out, and lay before the Council a correct account of all sums of money which shall have been paid into Court or otherwise received, and which shall have remained unclaimed for the space of *Twelve* calendar Months next before the first day of such month; and the said account shall also contain the names of the parties having paid such sums of money, and also the names of the parties for whom and on whose account the same were so paid into Court or received; and any sums which may have remained unclaimed for the space of *Four* Years may be transferred by an order in writing, to be signed by the Recorder, from the account of the Suitors' Fund to the account of the Borough Fund, and all sums so transferred shall and may be applied to the same purposes, and shall be subject to the same regulation as fees taken by virtue of this Act.

19.
Fines to be paid over to the Treasure of the Borough.

And be it Enacted, That every fine, forfeiture or penalty which shall be received by virtue of this Act shall, after deducting the reasonable costs and charges which may have been incurred in apprehending and taking the person on whom such fine, forfeiture or penalty shall be imposed, be paid over to the Treasurer of the Borough, to be by him carried to the account of the Borough Fund.

20.
Treasurer to enter Receipts and Payments in a Book.

And be it Enacted, That the Treasurer of every Borough shall, in a Book to be kept for that purpose, enter the accounts of all sums of money by him received and paid in pursuance or by virtue of this Act, and of the several matters for which such sums shall have been received and paid, and the Book containing such accounts shall at all reasonable times be open to the inspection of the Recorder, or of any of the Aldermen or Councillors of such Borough; and all the accounts aforesaid, with all vouchers and papers relating thereto, shall be examined and audited at the same times and by the same persons as shall be appointed for the examination and auditing of the accounts of the Treasurer of the said Borough; and the Clerk of the said Court is hereby required to attend at the said examination and audit, and to produce all such vouchers and papers relating to the said account as shall be in his custody or power; and all accounts so kept in pursuance of this Act shall be subject to all such and the like provisions as shall be in force for the time being with respect to any other account to be kept by the said Treasurer.

21.
Summary remedy against Clerk or Treasurer for not accounting.

And be it Enacted, That if any such Clerk or Treasurer shall refuse or wilfully neglect to deliver any account, or to produce any voucher relating to the same, or to make any payment so as aforesaid required to be delivered, produced or made, or shall refuse or wilfully neglect to deliver to the Council, or to such person as the Recorder shall authorize, within *Three* Days after being thereto required by notice in writing under the hand of the Recorder, to be given or left at the last place of abode of such Clerk or Treasurer, all books, papers and writings in his custody or power relating to the execution of this Act, or to give satisfaction to the said Council or to such other person as aforesaid respecting the same, then and in every such case, upon complaint made on behalf of the said Council by such person as they shall authorize for that purpose, of any such refusal or wilful neglect as aforesaid to any Justice of the Peace for the County or other Jurisdiction wherein such Clerk or Treasurer so refusing or neglecting shall be or reside, such Justice is hereby authorized and required to issue a warrant under his hand and seal for bringing such Clerk or Treasurer before any *Two* Justices of the Peace for such County or Jurisdiction; and upon the said Clerk or Treasurer appearing or not being found, it shall be lawful for such Justices to hear and determine the matter in a summary way; and if it shall appear to such Justices that any monies remain due from such Clerk or Treasurer, such Justices may and they are hereby authorized and required, upon non-payment thereof, by warrant under their hands and seals, to cause such monies to be levied by distress and sale of the goods of such Clerk or Treasurer; and if sufficient goods shall not be found to satisfy the said monies and the charges of the distress, or if it shall appear to such Justices that such Clerk or Treasurer has refused or wilfully neglected to deliver such accounts or the vouchers relating thereto, or that any books, papers or writings relating to the execution of this Act remain in the hands or in the custody or power of such Clerk or Treasurer, and that he has refused or wilfully neglected to deliver the same, or to give satisfaction respecting the same as aforesaid, then and in every such case such Justices shall and they are hereby required to commit such offender to the Common Gaol or House of Correction for the County or Jurisdiction where such offender shall be or reside, there to remain without bail until he shall have paid such monies as aforesaid, or shall have compounded with the said Council for such monies, and shall have paid such composition in such manner as they shall appoint, which composition the said Council are hereby required to make and receive, or until he shall have delivered a true account as aforesaid, together with such vouchers as aforesaid, or until he shall have delivered up such books, papers or writings, or have given satisfaction in respect thereof to the said Council, or to such other person as aforesaid, as the case may be: Provided always, That no person so committed shall be detained in prison for want of sufficient distress only, for a longer space of time than *Three* calendar Months: Provided also, That nothing in this Act contained shall prevent or abridge any remedy by action against any such Clerk or Treasurer so offending as aforesaid, or against any surety for any such Clerk or Treasurer, but such Clerk or Treasurer shall not be sued by action, and also proceeded against in a summary manner by virtue of this Act, for the same cause.

Proviso.

Remedy by Action.

22.
Jurisdiction over what debts.

And be it Enacted, That it shall be lawful for every Court of Requests which shall be holden in any Borough under the provisions of this Act, and the same is hereby authorized and required to entertain, decide and determine all disputes and differences between party and party for any sum of money not exceeding *Five* Pounds in all actions of debt on simple contract arising within such Borough, or within Miles of such Borough, except as hereinafter contained: Provided always, That in every case provided in this Act, the distance of Miles shall be computed by the nearest public road or way by land or water to the boundary of such Borough.

23.
What debts excluded.

Provided always, and be it Enacted, That nothing in this Act contained shall extend or be construed to extend so as to enable any such Court to determine or decide the right or title to any lands, tenements or hereditaments, or real estates whatsoever, or to determine or decide any action wherein the title of the freehold or lease for years of any lands, tenements or hereditaments, or of any chattels real whatsoever, or wherein any franchise, privilege or chartered rights of any person or body politic or corporate, or wherein the validity of any bankruptcy shall be brought or come in question, or to entertain or determine any action brought or founded on any bye-law or on any agreement by way of composition for or by way of retainer of tithes, or any action in respect of any rent-charge payable instead of tithes, or any action for the recovery of any debt that shall arise by reason of the occupation of lands, tenements or hereditaments situate elsewhere than within the said Borough, or any action for the recovery of any premium on any policy of insurance, or for the recovery of any sum being the balance of any account originally exceeding *Five* Pounds, or for the recovery of any sum due for any toll, custom or duties, tax-rate or cess, or for the recovery of any sum or call due in respect of any share in any work or project undertaken or carried on by any Company or Corporation.

24.
Demands not to be split.

And be it Enacted, That nothing herein contained shall extend or be construed to extend so as to enable any Plaintiff to split or divide any cause of action where the whole sum that shall happen to be due and owing shall amount to more than *Five* Pounds, in order that the same may be made the ground of two or more actions for the purpose of bringing such actions within the jurisdiction of any such Court of Requests: Provided nevertheless, That if in any action the whole sum that shall appear to be due and owing to the Plaintiff fromt he Defendant shall exceed the sum of *Five* Pounds, then and in every such case the said Recorder shall and may, on such Plaintiff adducing satisfactory proof respecting such debt, adjudge, and order such sum to the Plaintiff, not exceeding *Five* Pounds, as to the said Recorder shall seem just and reasonable in that behalf, and such sum shall in the judgment or decree of the said Court, be declared to be and shall be in full discharge of all demands from the Defendant to the Plaintiff in respect of such debt or cause of action as aforesaid, and the Plaintiff shall be precluded from afterwards proceeding in the same or in any other Court for or on account thereof: Provided, That it shall be lawful for every Plaintiff, at any time before judgment has been pronounced, to withdraw his Action.

25.
Who may sue.

And be it Enacted, That in every Court of Requests that shall be holden in any Borough according to the provisions of this Act, it shall be lawful for any person whatsoever, whether residing within the said Borough or elsewhere, to commence and prosecute any action for any debt due or owing to or demanded by him, either in his own right or in the right of any other person; provided the debt so due owing or demanded shall be one for the recovery of which an action may by this Act be entertained and determined by such Court: And provided further, That the person from whom the said debt shall be due, owing or demanded, or who shall be sought to be charged therewith, shall be subject to the process of the Court according to the provisions hereinafter contained.

26.
Who may be sued.

And be it Enacted, That every person being a burgess of any Borough in which a Court of Requests shall be holden by virtue of this Act, and every person residing or inhabiting within the said Borough or within *Seven* Miles, or keeping or using any house, warehouse, wharf, quay, counting-house, chambers, lodging, office, shop, shed, stall or stand, ship, vessel or boat, or employed working or seeking a livelihood, or trading or dealing within the said Borough, or using or frequenting any market in the same, shall be subject to the process of the said Court, and may be sued therein to judgment and execution.

27.
Attorneys not privileged.

And be it Enacted, That no privilege shall be allowed to exempt any person from the jurisdiction of any Court of Requests on account of his being a barrister, an attorney, or solicitor or any other officer of any Court of Law or Equity at Westminster, or of any other Court whatsoever; but that all barristers, attorneys, solicitors and officers shall be subject to the process of every Court of Requests in the same manner as any other persons are subject to the same by this Act or otherwise, and may be sued therein to judgment and execution.

28.
In which cases minors may sue and be sued.

And be it Enacted, That in every Borough in which a Court of Requests shall be holden according to the provisions of this Act, in every case where a debt not exceeding *Five* Pounds shall have been contracted for necessaries by any person under the age of *Twenty-one* Years, being a person subject to the process of the said Court of Requests according to the provisions of this Act; and such debt would be recoverable against such person at his coming of age in any Court of Common Law, it shall be lawful for the person to whom such debt shall be due to sue and recover the same in the said Court, in the same manner as if the person by whom the debt shall be contracted were of full age; and that in every case where any wages or other debt not exceeding the sum of *Five* Pounds shall be due to any menial servant or other person under the age of twenty-one years, it shall be lawful for such servant or other person to sue for and recover such wages or debt in such Court, in the same manner as if he were of full age, and every such Court is hereby fully authorized and required to entertain and determine every action for the recovery of any such debt in the same manner, and shall have such and the same powers in regard thereto, as if the plaintiff and defendant were of full age.

29.
Action to be commenced by Summons.

Parties may appear without Summons.

And be it Enacted, That in every action which shall be commenced in any Court of Requests which shall be established in any Borough in pursuance of this Act, the first process shall be a Summons according to the form numbered One in Schedule to this Act annexed, or to the like effect: Provided always, That if the parties between whom any dispute or difference shall exist respecting any debt recoverable by this Act shall both appear in the said Court, and shall voluntarily submit the action respecting the said dispute and difference to the jurisdiction of the same, it shall be lawful for the said Court to decide and determine the said action, and to proceed therein to judgment and execution, whether any such summons shall or shall not have been issued.

30.
Security for costs.

And be it Enacted, That no Clerk of such Court of Requests shall sign or deliver any such Summons as aforesaid, unless the plaintiff shall at the time of issuing out such summons deposit with such Clerk such sum as the Recorder shall determine by rule of Court, which sum so deposited shall stand as a security for such costs as may be awarded to the defendant, according to the provisions hereinafter contained; and if there shall be any overplus remaining in the hands of the said Clerk of the Court after the sum awarded to the defendant shall have been paid, or if the plaintiff shall on the return day of any such summons, or on any adjournment thereof, appear and make proof of his demands to the satisfaction of the said Court, or if it shall appear that since the issuing of such summons the debt has been settled or paid, then and in every such case such overplus or sum of money so deposited with the said Clerk as aforesaid shall be by him returned and repaid to such plaintiff.

31.
Summons on joint Debtors

And be it Enacted, That where any debt shall be due or demanded from any two or more persons jointly by reason or on account of such persons being in trade, the like service of any such Summons as aforesaid on or for any of such two or more partners or persons, shall be as good and sufficient in law as if each of them were separately summoned as aforesaid.

32.
Notice of set-off to be given.

And be it Enacted, That if any Defendant in any Action commenced in any such Court of Requests shall have any demand on the Plaintiff, in the nature of a set-off, to lessen or discharge himself from the said Action, he shall, *Three* Days at least before the day fixed for the hearing of such Action, deliver to the Clerk of such Court of Requests a Notice in writing of such set-off, and of the particulars of the same.

33. Evidence confined to particulars of demand or set-off.

And be it Enacted, That at the trial of any Action in any such Court of Requests, no evidence shall be admitted on behalf of the Plaintiff of any Debt, except such as is stated in or indorsed upon the said Summons hereby directed to be given; nor shall any evidence be admitted on behalf of the Defendant of any demand in the nature of a set-off, except such as is stated in or indorsed upon the said notice of set-off hereby directed to be given.

34. Statute of Limitations available.

And be it Enacted and Declared, That all Defendants in any Court of Requests shall be allowed to plead or claim any Statute of Limitations now in force, or hereafter to be made; and every Defendant so pleading or claiming shall have and receive such and the like advantage and relief thereby as he would have been entitled to in case this Act had not been made, and he had been tried for the same Debt or other cause of Action in any of His Majesty's Courts at Westminster or any other Court, and had there pleaded such Statute in bar of the Action or Suit.

35. Subpœna for Witnesses.

And be it Enacted, That it shall be lawful for any Plaintiff or Defendant in any Action depending in any Court of Requests holden in any Borough under the provisions of this Act, to cause any person residing or being within the said Borough, or within Miles thereof, to be served with a Subpœna by delivering a copy thereof to the party, or by delivering such copy at the party's usual place of abode to some inmate, and explaining the purport thereof to such inmate, to appear as a witness to give evidence in the said Court in or concerning any such Action; and in case any such person, after being duly served as aforesaid with such Subpœna, shall refuse or neglect to appear pursuant to such Subpœna, due proof being made of the service of such Subpœna, and no sufficient cause for his absence or non-appearance being shown to the satisfaction of the said Court, or if such person so served as aforesaid and appearing shall refuse to be examined upon oath or affirmation, and to give evidence as aforesaid before the said Court, according to the true intent and meaning of this Act, then and in any of the said cases every such person so neglecting or refusing shall forfeit and pay for every such offence not exceeding the sum of *Forty* Shillings, to be awarded by the said Court; and if any person so offending shall not forthwith pay into the said Court the penalty or forfeiture so imposed upon him, it shall be lawful for the said Court to order and cause such person to be apprehended by any of the Officers of the said Court, and committed to any prison in the said Borough, there to remain for any space of time not exceeding *One* Month, unless such penalty or forfeiture shall be sooner paid.

36. Witnesses' Expenses.

And be it Enacted, That no Clerk of such Court of Requests shall make out or issue any such Subpœna as aforesaid, unless the party applying for the same shall at the time of such application deposit with the said Clerk such sum of money as the Recorder shall appoint by rule of Court, which sum of money so deposited shall stand as a security for the payment of such expenses, if any, which the Recorder shall think fit to award to such witness; and if the Recorder shall not think fit to award any sum in that behalf, or if there shall be any surplus in the hands of the said Clerk after the sum awarded to the witness shall have been paid, then and in every such case such surplus or sum of money so deposited with the said Clerk as aforesaid shall be by him returned and repaid to the party by whom the same was deposited.

37.
Power to administer oath.

And be it Enacted, That it shall be lawful for every such Court of Requests to administer an oath, or in the case of every person authorized by law to make an affirmation instead of taking an oath, then to administer such affirmation to the Clerk or any officer of the said Court, and to any plaintiff or defendant, and to any witness who shall be called to give evidence in the said Court.

38.
Perjury.

And be it Enacted, That if any person taking any oath required or authorized by this Act, or making any affirmation instead of taking such oath, shall wilfully swear or affirm falsely, such person shall be deemed guilty of perjury, and shall be punished accordingly.

39.
No legal practitioner allowed.

And be it Enacted, That no Barrister, Attorney, Solicitor, Scrivener or other person practising the law, or any clerk to any such person, shall be permitted to appear or be heard in any Court of Requests as Counsel, Attorney, Solicitor or Advocate for or on behalf of any Plaintiff or Defendant, or any other person, in any action or matter: Provided always, That nothing herein contained shall prevent any such Barrister, Attorney, Solicitor, Scrivener, Clerk or person from appearing and being heard in any action or matter as a party or a witness.

40.
Power to adjudicate.

And be it Enacted, That it shall be lawful for every such Court of Requests established, in case both parties shall duly appear in Court, and the same is hereby authorized and required, to hear and inquire into the disputes and differences in respect of which the action was commenced, and to receive as well the testimony of the parties themselves as all other evidence tendered in their behalf which shall appear to such Court to be material or proper to be received, and to pronounce judgment thereupon, and to make such decrees therein as to the said Court may appear just and reasonable, and in such decree to award such sum by way of costs of suit, to be paid by the losing party, as the said Court shall in its discretion think fit.

41. If parties do not appear.

And be it Enacted, That in case the Plaintiff shall fail to appear personally or by one of his family, or by such person as the Court shall allow, not being a person so prohibited as aforesaid, it shall be lawful for the Court to dismiss the case; and in case the Defendant shall fail to appear either personally or by one of his family, or by such person as the Court shall allow, not being a person so prohibited as aforesaid, and it shall be proved to the satisfaction of the Court that Defendant has been duly served with such summons as hereinbefore required, it shall be lawful for the Court to proceed in his absence in the same manner as if he had duly appeared.

42. Defendant proceeded against in his absence may stay execution.

Provided always, and be it Enacted, That in every Action in which any such Court shall so proceed in the absence of the Defendant, and shall therein make any order for the payment of any sum of money by such Defendant, it shall be competent for him, on depositing such sum of money, together with such further sum as the Recorder shall require by rule of Court, as a security for further costs in the hands of the Clerk of such Court, at any time before a Precept of Execution shall have issued, to require such Clerk to enter a stay of Execution in the Judgment Book, and the same shall be entered accordingly, and Execution shall thereupon be stayed till the next Court-day or any adjournment thereof; and such Clerk is hereby required to certify to the Recorder on such Court-day every such application and stay of Execution granted, and to cause a notice of such application and stay of Execution to be served upon the other party.

43. Power to adjourn.

Provided always, and be it Enacted, That it shall be lawful for any such Court of Requests to adjourn or postpone any Action depending therein when and so often as by reason of the illness or absence of either of the parties, or by reason of the want of any witness, or by reason of the want of any deeds, writings or other evidence, or by reason of any set-off or unexpected defence being insisted on by the Defendant or otherwise, it shall appear to such Court that such adjournment or postponement would be expedient for the more fully and satisfactorily inquiring into and determining the differences and disputes in respect of which such Action was commenced: Provided always, That at the time of such adjournment or postponement a day or time shall be fixed for the hearing of such Action.

44. Costs to Defendant.

And be it Enacted, That if upon the day of the return of any Summons issued according to the provisions herein contained, or at any adjournment or postponement of the Action in respect of which the said Summons shall have been issued, the Plaintiff shall not duly appear, and the case shall be dismissed by the Court, or if so appearing he shall not make proof of his demand to the satisfaction of the said Court, but shall become nonsuited, or judgment shall be pronounced against him by the said Court, or he shall withdraw his Action, then and in every such case it shall be lawful for the Court, and the same is hereby required, to award to the Defendant a part or the whole of the money so deposited with the Clerk of the Court as hereinbefore required, by way of costs and satisfaction for his trouble and attendance, together with such further sum as the said Court in its discretion shall think fit.

45.
Judgment, &c. to be entered in Judgment Book.

And be it Enacted, That every judgment and decree of every such Court shall be entered forthwith by the Clerk of such Court into a book to be kept by him, and called the Judgment Book of the said Court, and that to every judgment and decree so entered as aforesaid the Recorder shall forthwith in open Court sign his name; and every judgment and order so entered and signed shall be receivable as evidence in every Court whatsoever: Provided always, that no judgment or decree shall be valid or have any force or effect which shall not appear to be so entered and signed as aforesaid, or shall be of any force or effect for any matter or thing which is not contained and specified in such entry.

46.
Time of payment of sums decreed to be paid.

And be it Enacted, That in every action in which any such Court of Requests shall make a decree for the payment of any sum of money, either by the Plaintiff or Defendant, or by the master or employer of the Plaintiff or Defendant or any other person, every such sum of money is hereby required to be paid forthwith, unless the Court shall in and by such decree otherwise order: Provided always, That it shall be lawful for every such Court of Requests in and by such decree to order that such sum of money shall be paid within any period to be fixed by the Court, or that it shall be paid by any and such instalments as shall to such Court seem reasonable in that behalf; and it shall be further lawful for such Court in and by such decree to order and direct that the payment of any sum of money thereby ordered to be paid shall be subject to such conditions or qualifications as such Court shall think fit to annex.

47.
All payments to be made to the Clerk.

And be it Enacted, That every sum of money which shall be ordered to be paid by any such decree as aforesaid shall be paid to the Clerk of the Court, and not to any other officer or person, and every such payment is hereby required to be made either in Court or at the office of such Clerk during office hours, as the same shall be regulated by the Recorder.

48.
Search of Judgment Book.

And be it Enacted, That it shall be lawful for every person prosecuting any such decree as aforesaid, on application to the Clerk of such Court of Requests at the office of such Clerk during such office hours as aforesaid, to examine the Judgment Book of such Court, in order to ascertain whether the party who shall have been ordered to pay any sum of money by such Decree has paid such sum or any instalment thereof at the time when such sum or instalment is by such Decree of the Court or by this Act ordered or required to be paid, and such person is hereby authorized to demand and receive every such sum or instalment which shall have been so paid over to or received by the Clerk of the Court: Provided always, That, at the time of receiving the same, such person shall sign in the Judgment Book an acknowledgment of such receipt, which acknowledgment shall be binding upon him to all intents and purposes whatsoever, and shall be a valid discharge, as well to the Clerk of the Court as to the person against whom such Decree shall have been made, for the sum of money therein specified.

49.
Issuing of Execution.

And be it further Enacted, That if, upon such examination of the Judgment Book as aforesaid, it shall appear that any person who shall have been so ordered to pay any sum of money by such Decree as aforesaid, shall have failed to pay such sum or any instalment thereof at the time when such sum or instalment is by such decree or by this Act ordered or required to be paid, then and in every such case it shall be lawful for the Clerk of such Court, and he is hereby required, at the request of the party prosecuting such Decree, to issue a Writ of Execution, with costs, against the goods and chattels of the party against whom such Decree shall be made, and to direct and deliver the same to some one or more of the Officers of such Court; and every Officer to whom any such Writ shall be so directed and delivered as aforesaid is hereby authorized and required to levy, by distress and sale of the goods and chattels of such party, being within the limits of the Borough, such sum of money as shall have been so ordered to be paid, together with the costs.

50.
Debts and Costs to be indorsed on precept.

And be it Enacted, That in or upon every Precept of Execution issued against the goods and chattels of any person whomsoever, the Clerk of the said Court shall insert or indorse the sum of money and the costs so ordered and awarded; and if the party against whom such Execution shall be issued shall, before an actual sale of the goods and chattels as herein mentioned, pay or tender or cause to be paid or tendered to the Clerk of the said Court, or to the Officer holding the Execution, such debt and costs as aforesaid, or such part thereof as the plaintiff shall agree to accept in full for his debt, together with the costs, then and in every such case the Execution shall be superseded, and the goods and chattels of the said party shall be discharged and set at liberty, and the Officer holding the Execution shall immediately transmit such sum of money as he shall have received in that behalf to the Clerk of the said Court.

51.
Sale of goods taken in execution.

And be it Enacted, That no sale of any goods or chattels which shall be taken under or by virtue of any Precept or Execution to be issued in manner aforesaid shall take place or be made until after the expiration of *Eight* Days at least next following the day on which such goods shall have been so taken; and in the mean time, and until any such sale shall be made, it shall be lawful for the officer taking or levying the said goods and chattels to deposit the same in some fit and convenient place to be appointed by the Council of the said Borough: Provided always, That it shall be lawful for the said Council from time to time, and when and as often as they shall think proper, to nominate and appoint such and so many sworn Brokers and Appraisers for the purpose of selling or valuing any goods or chattels taken in execution under or by virtue of this Act as shall appear to the said Council necessary or proper, which said Brokers and Appraisers shall be Officers of the Court of Requests, and be liable to be dismissed in like manner as the Officers of the Court.

52.
Costs of distress.

Provided always, and be it Enacted, That the costs and charges levied for the distress shall not exceed the costs and charges specified in an Act passed in the fifty-seventh year of the reign of King GEORGE the Third, intituled, "An Act to regulate the Costs of Distresses levied for Payment of small Rents."

53.
Justice may back a precept out of the Borough.

And be it Enacted, That in all cases where a Precept of Execution against the goods and chattels of any person whatsoever shall have been obtained in any such Court of Requests in any Borough, and the goods and chattels of such person shall be or shall be removed out of the said Borough, it shall be lawful for any Officer of the said Court to apply to any Justice of the Peace acting for the county or place in which such goods or chattels shall so be, or to which they shall have been so removed as aforesaid; and upon proof being made upon oath (which oath such Justice is hereby authorized and required to administer) of such Precept of Execution having issued, and that the goods and chattels of such person therein named are not to be found within the said Borough, but are believed to be within the county or place where such Justice of the Peace shall act, such Justice of the Peace is hereby authorized and required to sign or indorse his name upon the back of the said Precept of Execution, and thereupon it shall be lawful for the Officer of the said Court, and he is hereby authorized, to take such goods and chattels wheresoever the same shall be found within the county or place for which such Justice of the Peace who shall have so signed or indorsed the said Writ of Execution as aforesaid shall act, and to deal therewith in like manner as if the same had been taken within such Borough; and all Constables and other Peace Officers shall and they are hereby required to be aiding and assisting within their respective districts in the execution of the said Writ so indorsed as aforesaid.

54. Power to attach wages.

And be it Enacted, That in any action in which any such Court of Requests shall make a Decree for the payment of money, it shall be lawful for the said Court in and by such Decree, or in and by any subsequent Decree, to order the master or employer for the time being, from whom any wages shall be due, or shall from time to time become due and payable to the party against whom such Decree for the payment of money shall have been made, to pay over, in the manner hereinafter directed, either the whole or any part of such sum so as aforesaid ordered to be paid, and then remaining due and unpaid: Provided always, That notice in writing of every Decree whereby any master or employer shall be ordered to pay any sum of money, shall be served forthwith on such master or employer by one of the Officers of the Court.

55. Means of enforcing the attachment.

And be it Enacted, That on such notice being duly served, such master or employer shall become liable to pay over to the Clerk of the Court of Requests the sum specified in such Decree according to the terms of the same, and at the periods thereby fixed for such payment; and in default of such payment the Clerk of the Court shall, at the request of the party prosecuting the said Decree, issue a Precept under his hand to an Officer of the Court to demand of such master or employer the payment of any sum or instalment when the same shall have become due; and the payment to and receipt of the said Clerk, or any Officer to whom such Precept shall be delivered, shall be a good discharge to such master or employer for so much of such wages as shall be so paid by virtue of any Decree; and if any such master or employer shall neglect or refuse to pay to the said Clerk, or to the Officer producing such Precept as aforesaid, the money which he has so become liable to pay by virtue of such Decree as aforesaid, according to the terms of such Decree, and at the periods thereby fixed for such payment, the same may be levied and recovered, and the payment thereof from time to time enforced against such master or employer, by the same ways and means as are by this Act provided for the recovery of any debt.

56. Master may move to set it aside.

Provided always, and be it Enacted, That it shall be competent for any master or employer, by or from whom any such payment shall have been so made or enforced as aforesaid, to enter a notice Caveat with the Clerk of the Court, warning him not to pay over the sum so paid into Court to the party prosecuting such Decree as aforesaid, and thereupon the Clerk shall enter such notice or Caveat in the Judgment Book, and the sum so paid shall remain in Court until the next Court-day, or any adjournment thereof; and such Clerk is hereby required to certify to the Recorder on the next Court day every such Caveat so entered, and to cause a notice of such Caveat to be served on the party prosecuting such Decree as aforesaid; and on such Court-day, or any adjournment

adjournment thereof, it shall be competent for the said master or employer to show cause why the said Decree should be set aside, either in whole or in part; and upon every Caveat so entered it shall be lawful for the Recorder to make such Decree, and therein to award such costs, as shall seem reasonable in that behalf.

57.
No imprisonment for debt.

And be it Enacted, That no person shall be imprisoned by the order of any such Court of Requests holden according to the provisions of this Act, on account of any Debt due by him.

58.
Except in case of fraud.

Provided always, and be it Enacted, That if upon the hearing of any cause it shall appear that the Defendant shall have, under false colour or pretence of carrying on business and dealing in the ordinary course of trade, obtained credit from the Plaintiff for any goods and chattels with intent to defraud the owner thereof, or that the said Defendant shall have made or caused to be made any fraudulent gift, delivery or transfer of any of his money, valuable securities, goods and chattels, or other personal property, or shall have removed or concealed the same with intent to defraud the plaintiff, that then and in every such case it shall be lawful for the Recorder, if he shall think fit so to do, to order that the Defendant so offending shall be committed to any Gaol or House of Correction for any space of time not exceeding *Thirty* Days, unless the Plaintiff shall be sooner satisfied.

59.
Out of the Borough, Warrant to be backed by a Justice.

And be it Enacted, That in all cases where any Warrant shall have issued for the Commitment of any Defendant, and such Defendant shall be or shall go out of the said Borough, it shall be lawful for any Officer of the said Court to apply to any Justice of the Peace acting in and for the county or place in which such person shall so be, or to which he shall so have gone as aforesaid, and upon proof being made upon oath (which oath such Justice is hereby authorized and required to administer) of such Warrant having issued, and that the said Defendant therein named is not to be found in the said Borough, but is believed to be within the county or place where such Justice of the Peace shall act, such Justice of the Peace is hereby authorized and required to sign or indorse his name upon the back of the said Warrant, and thereupon it shall be lawful for the said Officer, and he is hereby authorized, to take the person of the Defendant wheresoever the same shall be found within the county or place for which such Justice of the Peace who shall have so signed or indorsed the said Warrant as aforesaid shall act, and to deal with the same in like manner as if he had been taken within such Borough.

60.
Action not exceeding 40*s.* not to be brought elsewhere.

And be it Enacted, That no Action or Suit for any Debt not exceeding the sum of *Forty* Shillings, and recoverable in any such Court of Requests holden in any Borough shall be brought against any person being a Burgess of such Borough, or residing or inhabiting within such Borough, in any other Court whatsoever.

61. When verdict does not exceed 40 *s.*, Defendant to have Costs.

And be it Enacted, That if upon the trial of any Action for the recovery of any Debt sued or prosecuted in any of His Majesty's Courts at Westminster, or any other Court of Record, the Jury shall find the damages for the Plaintiff not exceeding the value of *Forty* Shillings, and it shall appear to the Judge before whom such Action shall be tried that the Debt was recoverable in any Court of Requests so holden as aforesaid in any Borough, and that at the time of commencing such Action the Defendant was a burgess of such Borough, or an inhabitant or resident within the same, then and in every such case such Judge shall and he is hereby required to certify the same upon record; and thereupon the Plaintiff shall not be entitled to any costs of suit whatsoever, and the Defendant shall be entitled to the full costs thereof, and shall have such remedy for recovering the same as any Defendant has for costs of suit in other cases by law.

62. This Act not to prevent any distress or action for rent.

Provided always, and be it Enacted, That nothing herein contained shall extend or be construed to extend to prevent or restrain any person from making distress or bringing any Action whatsoever for rent, and thereby recovering such rent with costs, although the same rent shall not amount to the sum of *Forty* Shillings.

63. No Certiorari.

And be it Enacted, That no Summons, Order, Decree, Judgment or other Proceeding of any such Court of Requests shall be removed or removable into any of His Majesty's Courts at Westminster, or into any other Court, by Certiorari, or by any other Writ or Process whatsoever except as hereinafter contained.

64. Action above 40*s.* removable into Borough Court of Record.

Provided nevertheless, and be it Enacted, That in case any person sued in such Court of Requests holden in any Borough in any Action where the Debt demanded is more than *Forty* Shillings, and both the Plaintiff and Defendant were of the full age of Twenty-one years at the time of commencing the same, shall be desirous of having such Action tried in the Court of Record of such Borough, or in any inferior Court of Record having jurisdiction in such Borough, it shall be lawful for such person so sued as aforesaid, upon being served with a Summons out of any such Court of Requests as aforesaid, or within *Three* Days afterwards, on depositing with the Registrar of such Court of Record the sum of *Five* Pounds as a security for costs to abide the event of the Suit, to obtain from such Registrar a Certificate to that effect, and upon such Certificate being delivered at the office of the Clerk of such Court of Requests, any further proceedings in the said Action in such Court of Requests shall be stayed, and the Plaintiff shall prosecute his Action in such Court of Record as aforesaid as though the same had been originally commenced therein, and such last-mentioned Court shall have jurisdiction of such cause.

65.
Plaintiff to proceed within Months.

Provided nevertheless, and be it Enacted, That such Defendant shall likewise serve notice of such Certificate so granted as aforesaid upon the Plaintiff, and if the Plaintiff shall not file his Declaration within Months after being served with such notice, he shall be deemed to be out of Court; and in every such case it shall be lawful for the said Registrar, and he is hereby required, on affidavit made of such service as last aforesaid, to return the money so deposited to the Defendant, deducting a reasonable charge for his trouble therein; and that when the Plaintiff is so out of Court as aforesaid, it shall be lawful for the said Clerk of the Court of Requests, and he is hereby required, to return to the Plaintiff the money so deposited with him by the said Plaintiff on the issuing of his Summons as required by this Act: Provided also, That no Defendant in any Court of Requests shall obtain any such certificate as aforesaid from the Registrar of any Court of Record, in which there shall not have been *Three* Causes at the least prosecuted to judgment and execution within *Twelve* calendar Months next preceding the application made for such Certificate.

66.
Interpretation clause.
Borough.

And be it Enacted, That in the construction of this Act the word Borough shall be construed to mean City, Borough, Port, Cinque Port or Town Corporate, named in one of the Schedules (A.) and (B.) annexed to the within-mentioned Act to provide for the Regulation of Municipal Corporations in England and Wales, and also to mean Town or Borough to which His Majesty has, since the passing of the said Act, granted or shall hereafter grant a Charter of Incorporation; and the word Burgess shall be construed to mean Citizen in the case of a City; and the word County shall be construed to mean County, Riding, Parts, Liberty or Division; and the word Recorder shall mean Recorder or Deputy Judge of a Court of Requests, or other Deputy appointed in pursuance of this Act; and the word Court of Requests shall mean a Court of Requests holden in any Borough by virtue of this Act; and in describing any person or thing, any word importing the singular number or the masculine gender only shall be construed to mean also several persons or things respectively, and females as well as males, unless there be something in the subject or context repugnant to such construction.

Burgess.
County.
Recorder.
Court of Requests.

And be it Enacted, That this Act may be amended, altered or repealed by any Act to be passed during the present Session of Parliament.

SCHEDULE

SCHEDULE to which this ACT refers.

—No. 1.—

SUMMONS TO DEFENDANT.

COURT OF REQUESTS of the Borough of X. in the County of Y.

To C. D.

You are hereby summoned to appear before the said Court, at the (Guildhall) of the said Borough, on Wednesday the day of at ten of the clock in the forenoon, to answer the demand of A. B. for the debt owing by you, the particulars of which are indorsed hereon.

Dated this day of 18

M. N. Mayor or
Recorder of the said Borough.

O. P.,
Clerk of the Court.

Take Notice, if you do not appear, the Court may proceed against you to judgment and execution.

If you have any set-off, you must deliver a notice of it, and the particulars of it, to the Clerk of the Court three days before the day of hearing.

Indorsement.—These are the particulars of my demand.

£. s. d.

A. B., Plaintiff.

TABLE of FEES to be taken by the CLERK.

	Where the Debt demanded does not exceed 40*s.*	Where it exceeds 40*s.*
	s. d.	*s. d.*
For every summons and service	1 –	3 –
„ every hearing on trial upon summons	1 –	3 –
„ every hearing on trial, where no summons has issued	1 6	4 6
„ every precept of execution	1 –	3 –
„ every warrant of commitment	1 –	3 –
„ every subpœna and service	1 –	2 –
„ notice of set-off	– 6	1 –
„ swearing any witness or party	– 4	– 6
„ entering judgment	– 4	– 6
„ copy of judgment	– 4	– 6
„ search in judgment book	– 4	– 6
„ every precept not before mentioned	– 4	– 6
„ caveat	1 –	—
„ stay of execution	1 –	2 –
„ stay of proceedings	1 –	2 –

Small Debt Courts.

A

BILL

To enable the Recorder in certain Boroughs to hold a Court for the Recovery of Small Debts.

(*Prepared and brought in by*
Colonel Seale, Lord Viscount Ebrington and
Mr. Divett.)

Ordered, by The House of Commons, *to be Printed,*
2 *June* 1837.

363.

7 *July* 1837.—1 Vict.

A

BILL,

INTITULED,

AN ACT for the more effectual Recovery of Small Debts in the Justice of Peace Courts in *Scotland*.

[Note.—*The Figures in the Margin denote the Number of Folios in the Written Copy.*]

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1 WHEREAS an Act was passed in the sixth year of the reign of his Majesty George the Fourth, chapter Forty-eight, intituled, "An Act to alter and amend the Act passed in the Thirty-ninth and Fortieth years of King George the Third, for the Recovery of Small Debts in *Scotland*," by which the Justices of the Peace in *Scotland* are authorized to hear and determine, in a summary way, all Civil Causes where the Debt does not exceed Five Pounds sterling: And whereas another Act was passed in the tenth year of his said Majesty King George the Fourth, chapter Fifty-five, intituled, "An Act for the more effectual Recovery of Small Debts, and for diminishing the Expenses of Litigation in Causes of small Amount, in the Sheriff Courts in *Scotland*," by which the Sheriffs of Counties in *Scotland* are empowered to hear and determine, in a summary way, all Civil Causes where the Debt does not exceed the amount of One hundred Pounds *Scots*: And whereas it is expedient that the provisions of the first-recited Act should be altered and
2 amended, and that the Justices should be empowered to hear and determine, in a summary way, all Civil Causes where the Debt does not exceed One hundred Pounds *Scots*:

Preamble:

6 G. 4, c. 48.

10 G. 4, c. 55.

May it therefore please Your MAJESTY,

That it may be Enacted; **And be it Enacted**, by The QUEEN's most Excellent Majesty, by and with the Advice and Consent of the

1.
After 1st Sept. 1837, 6 G. 4, c.48, repealed, except as to causes then depending, and this Act to take effect.

Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the First day of September next after the passing of this Act, the said first-recited Act of the sixth year of the reign of His Majesty King GEORGE the Fourth shall be and the same is hereby Repealed, except as to such Causes as may have been brought under its authority before the commencement of this Act, and then depending, all which Causes shall be carried on to a conclusion, according to the rules prescribed by the said Act; and this Act shall commence and take effect from and after the said First day of September next after the passing of this Act.

2.
Justices of the Peace to hear and determine Causes for Sums not exceeding 100*l.* Scots.

And be it Enacted, That it shall be lawful and competent for any Two or more of Her Majesty's Justices of the Peace in *Scotland*, within their respective counties, to hear, try and determine, agreeable to equity and good conscience, all Civil Causes in a summary way, as more particularly hereinafter mentioned, where the debt or demand shall not exceed the value of One hundred Pounds *Scots*, exclusive of expenses; and it is hereby provided, that the Pursuer shall in all cases be held to have passed from any remaining portion 3
of any debt or demand beyond the sum actually concluded for in any such action.

3.
Service of Summons in such Causes.

And be it Enacted, That all such Causes which the Pursuers thereof shall choose to have heard and determined according to the summary mode hereby provided shall proceed, except as is hereinafter provided in regard to forthcomings upon Summons containing warrant to arrest upon the depending action, agreeably to the Forms in Schedule (A.) subjoined to this Act, which Summons, being signed by the Clerk, shall be a sufficient warrant and authority to any Constable for summoning the Defender to appear and answer at the first Court after the date of the Citation, not being sooner than upon the Sixth Day after such Citation, and the same, or the copy thereof served on the Defender, shall also be a sufficient warrant for summoning such Witnesses and Havers as either party shall require; and a copy of the said Summons, with the Citation annexed, and also a copy of the Account, shall be served at the same time by the Constable on the Defender personally, or at his dwelling-place, or in the case of a company, at their ordinary place of business; and the Constable summoning parties, witnesses or havers shall in all cases under this Act return an execution of citation signed by him, or shall appear and give evidence on oath of such citation having been duly made; and all such citations given by a Constable alone without witnesses, and executions thereof subscribed by such Constable shall be good and effec- 4
tual to all intents and purposes.

4.
Pursuer may arrest Money, &c. belonging to Defender, in the hands of a third party.

And be it Enacted, That the Pursuer of any Civil Cause may use arrestment on the dependence of the action of any money, goods or effects arrestable by the law of *Scotland*, in regard to which it is hereby provided and declared, that the wages of labourers and manufacturers shall, so far as necessary for their subsistence, be deemed alimentary in their nature, in like manner as servants' fees and other alimentary funds, to an amount or extent not exceeding the value of One hundred Pounds *Scots*, owing or belonging to such Defender, in the hands of any third party, either within the county in which such warrant shall have been issued, or in any other county or counties: Provided always, That before using such warrant in any other county, it shall be presented to and indorsed by the Clerk of the Peace of such other county, who is hereby required to make such indorsement; and provided also, That any Arrestment laid on under
6 the authority of this Act shall, on the expiry of Three Months from the date thereof, cease and determine, without the necessity of a decree or warrant of loosing the same, unless such Arrestment shall be renewed by a special warrant or order, duly intimated to the Arrestee, in which case it shall subsist and be in force for the like time and under the like conditions as under the original warrant, or unless an Action of Forthcoming in manner hereinafter provided shall have been raised before the expiry of the said period of Three Months, in which case the arrestment shall subsist and be in force until the termination of such Action of Forthcoming.

Arrestment to be in force for Three Months.

5.
Arrestment may be loose on lodging a Bond with the Clerk of the Peace.

And be it Enacted, That when any Arrestment shall have been used on the dependence of any action, it shall be competent to the Defender to have such Arrestment loosed, on lodging with the Clerk of the Peace of the county in which such Arrestment shall have been used a bond or enactment of caution, by One or more good and sufficient Cautioners to the satisfaction of such Clerk, agreeably to the Form in Schedule (B.) subjoined to this Act, or on consigning in the hands of such Clerk the amount of the debt or demand, and Five Shillings for expenses, or on producing to such Clerk evidence of the Defender having obtained decree of Absolvitor in the action, or of his having paid the sums decerned for, or of his having consigned in the hands of the Clerk of the Court in which the action depended, the sums decerned for, or the amount of the debt or demand, and Five Shillings for expenses, when no decree has yet
7 been pronounced; and a certificate by the Clerk of the Peace of the county in which such Arrestment shall have been used of a bond or enactment of caution to the extent of the debt or demand and expenses having been lodged with him, or of consignation, as above provided, having been made in his hands, shall be a sufficient authority for obtaining a warrant for loosing any other Arrestment

used on the dependence of the same action, without any other caution being found or any other consignation being made by the Defender.

6.
Summons shall be sufficient Warrant to any Constable for summoning Arrestee and Debtor.

And be it Enacted, That any person entitled to pursue an Action of Forthcoming where the sum or demand shall not exceed the value of One hundred Pounds *Scots*, exclusive of expenses and fees of extract, who shall choose to have the same heard and determined according to the summary mode provided by this Act, shall proceed by Summons, agreeably to the Form in Schedule (C.) hereunto annexed, concluding for payment of the sum for which Arrestment has been used, or for delivery of the goods and effects arrested; which Summons or Complaint, being signed by the Clerk of the Peace of the county in which the Arrestee resides, shall be a sufficient warrant and authority to any Constable for summoning the Arrestee and the common Debtor to appear and answer at a Justice of Peace Court of the county in which the Arrestee resides, the same not being sooner than the Sixth Day after the date of citation, and also for summoning witnesses and havers for all parties; and in 8
the event of the common Debtor not residing and not being found within the county in which such Action of Forthcoming shall be brought, he may be cited in any other county on the said warrant, the same being first presented to and indorsed by the Clerk of the Peace of such other county, who is hereby required to indorse the same, to appear at a Justice of Peace Court in the county in which the Arrestee resides, the same not being sooner in such case than on the Twelfth Day after the date of citation: Provided always, That the Arrestee and the common Debtor shall be cited to appear on the same Court-day, and that a copy of the said Summons, with the Citation annexed thereto, shall be served by a Constable on every Defender personally or at his dwelling-place, all in the same manner and under the like conditions as to citation as hereinbefore provided in other causes under authority of this Act, but always allowing to a party cited to appear in the Justice of Peace Court of a different county from that in which the citation shall be given, double the time required by this Act to be allowed to a party cited to appear in the Justice of Peace Court of the county within which the citation shall be given.

7.
In case of counter claim, a Copy to be served on the Pursuer One Day before the Day of Appearance.

And be it Enacted, That where any Defender intends to plead any counter account or claim against the debt or demand pursued
for, he shall serve a copy of such counter account or claim by a 9
Constable on the Pursuer in the Form set forth in Schedule (A.) hereunto annexed, or to the like effect, at least One free Day before the day of appearance, otherwise the same shall not be heard or allowed to be pleaded on that day of appearance, except with the Pursuer's consent,

consent, but the hearing may be postponed so as to afford the Pursuer an opportunity of considering such counter claim or action.

8.
Constable to cite Witnesses.

And be it Enacted, That every Constable to whom any warrant as aforesaid for citing Witnesses and Havers shall be intrusted shall cite such Witnesses or Havers as any party shall require; and all such warrants shall have the same force and effect in any other county as in the county where they are originally issued, the same being first presented to and indorsed by the Clerk of the Peace of such other county, who is hereby required to indorse the same; and if any Witness or Haver duly cited on a citation of at least Forty-eight Hours shall fail to appear, it shall be competent to any party for whom such Witness or Haver is summoned to apply for a new warrant to compel his attendance at the next court, or any subsequent court to which the case may be adjourned, which warrant shall require him to attend to give evidence under a penalty not exceeding Forty Shillings, which he shall forfeit and pay, unless a reasonable excuse be offered and sustained; and every such penalty shall be paid to the party applying for the new warrant as aforesaid, and shall be recovered in the same manner as Civil Debts under this Act; and it shall be no objection to any Witness that such Witness has appeared without citation or without having been regularly cited.

Penalty on Witnesses not attending.

9.
When parties appear, Justices to hear them *vivâ voce.*

And be it Enacted, That when the parties shall appear, the said Justices shall hear them *vivâ voce*, and examine witnesses upon oath, and also the parties by declaration or upon oath, in the event of a reference, and determine the cause, and it shall be competent to the Court to remit to the Clerk, or to a person of skill, to report on the whole or any part of a cause before decision; and it is hereby provided, that no pleadings, arguments, minutes or evidence be taken down in writing or entered on any record; neither shall any Procurator or other person practising the Law be allowed to appear or to plead for any party, but it shall be competent to the Justices, where, in the special circumstances of any particular case, they shall deem fit, to allow a party to be heard by one of his family or other person in some respect connected with him, such person not being a practitioner of the Law, or an officer of Court, or deriving any pecuniary remuneration on account of such appearance; and in all cases where the party shall not personally appear, it shall be shown, to the satisfaction of the Court, that such absence is accounted for in a sufficient manner, and that the other party does not suffer prejudice therefrom; also that the person appearing for said absent party is not in any sense a practitioner of the Law, or is receiving any pecuniary remuneration by such appearance or on account of any of the proceedings therewith connected.

Practitioners of the Law not allowed to plead, but either party may be heard by one of his family.

10.
Defender not appearing to be held as confessing the Debt.

Justices may adjourn the Cause.

And be it Enacted, That if a Defender who has been duly cited, 11 whether personally or at his dwelling-place, shall not appear in Court, either by himself or by one of his family or connexions, as before provided, he shall be held as confessing the debt or justice of the demand, unless he shall send an excuse which shall satisfy the Justices that a delay ought to be granted ; in which latter case, or for any other good reason assigned, the Justices may adjourn the Cause to the next stated meeting, or other day to be specially appointed, and the parties and witnesses shall then attend.

11.
Where Decree pronounced in absence of Defender, he may obtain Warrant sisting Execution.

Matter in question may be reheard.

And be it Enacted, That where a Decree has been pronounced in absence of the Defender, it shall be competent for him, upon consigning the expenses decerned for, together with Five Shillings, in the hands of the Clerk at any time before the days of the charge elapse, to obtain from the Clerk a warrant, signed by him, sisting execution till the next Court-day, and a Summons containing a warrant to cite the Pursuer and Witnesses for both parties ; and the Clerk shall be bound to certify to the Justices at their said next meeting the application for rehearing, and the sist granted ; which warrant so issued, being served by a Constable upon the Pursuer, either personally or at his dwelling-place, in the manner provided in other cases by this Act, shall be an authority for having the matter 12 reheard at the next Court-day ; provided that the same shall not be sooner than the Sixth Day from the date of the Citation given to the Pursuer, or if the meeting of the Court shall be sooner than the Sixth Day from the date of such Citation, then at the Court-day next following ; and provided further, That it shall be competent for the Justices to continue the Sist granted in such cases from the first meeting of the Court after the application for a rehearing has been made to such time as may be necessary for the appearance of the parties in order to be reheard ; and in like manner, where Absolvitor has passed in absence of the Pursuer, it shall be competent for him, at any time within One calendar Month thereafter, upon consigning Five Shillings in the hands of the Clerk, to obtain a warrant, signed by the Clerk, for citing the Defender and witnesses of both parties, which warrant, beings erved by a Constable upon the Defender, either personally or at his dwelling-place in the manner provided in other cases by this Act, shall be an authority for having the matter reheard at the next Court-day or Court-day following, as hereby provided in the case of a rehearing at the instance of the Defender ; and it is 13 further provided, That the Court shall determine whether the whole or any part of the foresaid sum of Five Shillings directed to be consigned, shall be paid to the party who shall have attended as his indemnification for such attendance, or shall be restored to the party consigning the same ; and all such warrants for rehearing shall be in force and may be served by a Constable of the county where they are issued in any other county without indorsation or other authority than this Act.

12.
Clerk shall enter names and designations of Parties, &c. in a book, according to the Form in Schedule (D.)

And be it Enacted, That the Clerk shall keep a book, wherein shall be entered the names and designations of the parties, and whether they were present in Court or absent at the calling of the cause, the nature and amount of the claim, and date of giving it in, the several deliverances or interlocutory orders of the Justices, and the final decree, with the date thereof, which book shall be signed each Court-day by the Justices present, or by their Preses if more than two are present, the said entries by the Clerk being agreeable to the tenor of the Schedule marked (D.) annexed to this Act, or with such addition to the said entries as the Justices of the Peace in the several counties shall authorize and appoint, for the better and more regular despatch of the proceedings before them; and a copy of the said Decree, showing the amount of expenses, if any, found due, and containing warrant for arresting or poinding and selling the effects of the Defender, and for imprisonment where competent, shall
14 be annexed to the Summons, and on the same paper with it, agreeable to the Form in Schedule (A.) annexed to this Act; which copy of decree and warrant, being signed by the Clerk, and delivered to the party in whose favour the same is granted, shall be a warrant for execution after the expiration of Six clear Days from the date of pronouncing the Decree, if the party against whom it shall have been given was personally present in Court when it was pronounced, or had appeared by one admitted to attend for him, or if he was not so present, execution shall only proceed after a charge of Six free Days, to be given by the Constable, either by delivering a copy of the Decree or Judgment to the party personally, or leaving the same at his dwelling-place, to which charge the Constable shall make oath, if required; and if any Decree shall not be enforced by poinding or imprisonment, where competent, within a year from the date thereof, or from the date of a charge for payment given thereon, such Decree shall not be enforced without a new charge given as aforesaid.

Decree and Warrant, &c. to be made out conformable to Schedule (A.)

13.
Justices may award Sums found due to be paid by Instalments.

And be it Enacted, That the said Justices may, if they think proper, direct the sum or sums found due to be paid by instalments, weekly, monthly or quarterly, according to the circumstances of the party found liable, and under such conditions or qualifications as they shall think fit to annex.

14.
Decree may be enforced in any other County as well as in the County where originally issued.

15 And be it Enacted, That any Decree obtained under this Act may be enforced, where competent, against the effects of any party in any other county as well as in the county where the Decree is issued: Provided always, That such Decree, or an extract thereof, shall be first

produced to, and indorsed by, the Clerk of the Peace of such other county, who is hereby required to make such indorsement.

15.
Poinding &c. to be executed summarily by Constable.

And be it Enacted, That poinding and sale shall be carried into effect by a Constable in a summary way, by getting the effects poinded duly appraised by Two Persons, who may also be witnesses to the poinding, and leaving an Inventory or List thereof within Twenty-four Hours thereafter for the party whose effects are poinded.

16.
Constables to deposit poinded Goods in some secure Place.

And be it Enacted, That at the expiration of Twenty-four Hours from the time of such Inventory being so left, it shall be lawful for the Constable to carry the effects poinded to some secure place in the town in which the premises may be situated, and if not so situated to the nearest market town or village, and there to keep and duly preserve them for the space of Three Days, at the expiry of which time, if the sums found due shall not have been paid, he may sell the same to the highest bidder, by public roup, between the hours of Eleven Forenoon and Three Afternoon, at the Cross or public Weigh-house, or such most public place, on previous notice of such sale of at least Two Hours by the Crier; but reserving to the Court, by general regulation, 16
or special order in any particular case, to appoint a different hour or place for the sale, or a longer or different kind of notice to be given of the time of selling; and in poindings the overplus of the price, if there shall be any, after payment of the sums decerned for, and the expenses, if expenses are awarded, including what is allowed by this Act for poinding and sale, shall be returned to the owner, or consigned with the Clerk if the owner cannot be found; or if the effects are not sold, the same shall be delivered over at the appraised value to the creditor, to the amount of the sum decerned for, and expenses, if awarded, and the allowances for poinding and sale; and a report of the proceedings in the poinding and sale, and proceeds, or of the delivery of the effects, shall in every case be made by the Constable to the Clerk within Eight Days thereafter, agreeably to the Form in Schedule (E.) annexed to this Act, or to the like effect.

17.
In case of Sale of Goods arrested, course of proceeding to be the same as above directed in case of poinding and sale.

And be it Enacted, That where the Justices shall order a sale of goods or effects arrested, the same course of proceeding shall be adopted as is above directed in the case of poinding and sale; and no Constable, 17
to whom the enforcement of decrees or warrants in cases falling under this Act may be committed, shall be liable to any penalty, fine or punishment for selling goods or effects under authority of such decrees or warrants by public auction, in respect that such Constable may not be licensed as an auctioneer, any thing in any Act or Acts to the contrary notwithstanding; and if any person shall secrete or carry off or intromit with any

any poinded effects *in fraudem* of the poinding creditor's right, such person shall be liable to summary punishment by fine or imprisonment as for contempt of Court, either at the instance of the private party, with or without concurrence of the Procurator Fiscal, or at the instance of the Procurator Fiscal, or *ex proprio motu* of the Court, besides being liable otherwise as accords of law.

18.
Decree of Justices not subject to review.

And be it Enacted, That no Decree given by the said Justices in any cause or prosecution decided under the authority of this Act shall be subject to reduction, advocation, suspension or appeal, or any other form of review or stay of execution, other than provided by this Act, either on account of any omission or irregularity or informality in the citation or proceedings, or on the merits, or on any ground or reason whatever.

19.
Appeal.

And be it Enacted, That it shall be competent to any person
18 conceiving himself aggrieved by any Decree given by any Justices in any cause or prosecution raised under the authority of this Act, to bring the case by appeal before the next Circuit Court of Justiciary, or where there are no Circuit Courts, before the High Court of Justiciary at *Edinburgh*, in the manner and by and under the rules, limitations, conditions and restrictions contained in an Act passed in the twentieth year of the reign of His Majesty King George the Second, for taking away and abolishing the Heritable Jurisdictions in *Scotland*, except in so far as altered by this Act: Provided always, That such appeal shall be competent only when founded on the ground of corruption or malice and oppression on the part of the Justices, or material deviations in point of form, or incompetency including defect of jurisdiction of the Justices; and provided also, That such appeals shall be heard and determined in open Court; and it shall not be competent to produce or found upon any document not produced to the Court when the case is heard, and to which the signature or initials of the presiding Justices have not been then affixed, which he is only to do if required, nor to found upon or refer to the testimony of any witness not examined before the Court, and whose name is not written by the presiding Justice, when the case is heard, upon the record copy of the Sum-
19 mons, which he is to do when specially required to that effect; and provided further, That no sist or stay of the Process and Decree, and no certificate of appeal shall be issued by the Clerk, except upon consignation of the whole sum, if any, decerned for by the Decree, and expenses, if any, and security found for the whole expenses which may be incurred and found due under the appeal.

20.
Case in which One Justice may transact Business.

And be it Enacted, That it shall be lawful and competent for one Justice to hold a Court for the purpose of calling the roll of causes and of pronouncing decrees, either in absence or where the debt is admitted, and of securing return of executions of citations, but for no other purpose; which decrees in absence and in admitted debts, so pronounced, shall be equally valid and effectual as if they had been granted and issued by Two or more Justices then and there present.

21. Clerk to keep books, &c.

And be it Enacted, That the Clerk shall also keep a book or books containing a register of all Indorsations of Decrees and Warrants issued in other counties, and of all loosings of Arrestments, and of all reports of poindings and sales of effects, which books shall be open and patent at office hours to all concerned; and the Clerk shall cause a copy of the Roll of Causes to be heard in each Court-day to be exhibited to the public on a patent part of the Court-house at least One Hour before the time ofmeeting of such Court, and which shall continue there during the time the Court shall be sitting, and the Causes shall be audibly called in such Roll in their order, and any such Clerk not causing the Roll of causes each Court-day to be publicly exhibited, or not causing the names of the parties in such Roll to be called in their order as aforesaid, unless when the Justices shall, for special reasons, have deemed it proper to hear a particular case called out of its order, shall be liable in a penalty not exceeding Forty Shillings, which penalty, as well as all others under this Act, may be insisted for at the instance of any person who shall prosecute for the same, and be recovered in the same manner as Civil Debts under this Act, and be disposed of as the Court shall direct.

22. Penalty for neglect of duty.

And be it Enacted, That if any Clerk or Constable shall be guilty of any neglect of duty under this Act, the person so offending shall be liable to a penalty not exceeding, if he is a Clerk, the sum of Five Pounds for each offence, or, if he be a Constable, not exceeding the sum of Forty Shillings for each offence, reserving always to the said Justices the power competent to them of further punishing their officers by suspension or dismissal for this as well as other acts of malversation in office.

23. Clerk to keep an account of all Fines awarded.

And be it Enacted, That an account shall be kept by the Clerk of all Fines awarded by the Justices by virtue of this Act; and all such Fines shall, where the application of them is not otherwise provided for and directed by this Act, be paid to the Poor in such manner as the Justices shall direct.

24. Constable to find security for good behaviour.

And be it Enacted, That it shall be lawful for such Justices at their Quarter Sessions, and they are hereby required, to fix a sum which every Constable acting under them shall be bound to find as a security for his good behaviour, and to alter the amount thereof from time to time.

25. Justices at Quarter Sessions to make Divisions of County into Districts for purposes of this Act.

And be it Enacted, That the Justices of the Peace for each
24 county shall have power from time to time at any meeting of the Quarter Sessions to make suitable divisions of the county into districts, wherenot already done, or to alter the divisions already made, within which the Justices of the Peace shall meet at such stated times and places as the said Justices at their Quarter Sessions shall fix as most convenient, in order to carry the purposes of this Act into execution, and which meetings may be adjourned, if necessary, to any other lawful day or days, to be held at the same place; and the Justices at their Quarter Sessions shall order due notice to be given to all concerned of such divisions into districts, and of the stated times and places of meetings so to be appointed, or of the alterations of such divisions or stated meetings, where alterations are necessary, by advertisement in a county newspaper where such is published, and where there is no such newspaper, by one advertisement on each of the parish church doors of the county at least Two Sundays previous to the first stated meetings so to be appointed or altered.

Notice to be given of alteration or division.

26. In case Clerk of Peace shall not attend, Justices may appoint a Deputy.

And be it Enacted, That in case the Clerk shall fail to attend, either personally or by a sufficient deputy, in any of the said districts, at the meetings appointed by the said Justices of which the said Clerk has had due notice, the Justices who shall attend at such district meeting or meetings shall and they are hereby empow-
25 ered to name an interim Clerk for that district, who shall be removeable by any subsequent Quarter Sessions, and another Clerk may then be appointed by the said Quarter Sessions from time to time as they shall see cause; and the said Justices are hereby empowered to fix a suitable recompense for the said interim Clerk, to be paid by the Clerk of the Peace.

27. Justices empowered to make Rules and Orders for carrying this Act into effect.

And be it further Enacted, That for the better regulating the proceedings of the said Justices it shall and may be lawful to and for the Justices at their Quarter Sessions from time to time to make such rules and orders as they shall find to be necessary and most conducive for carrying into effect the provisions and purposes of this Act, such rules and orders not being inconsistent with any of the express enactments or conditions herein contained, or otherwise contrary to law; and the said rules and orders having been made by the said Justices at their Quarter Sessions, shall be in force, and kept and observed by the said Justices empowered to hear and determine the said causes, and their Clerks and Officers, and the Suitors before them, until the same shall be repealed or varied by the Justices at their said Quarter Sessions, or by the Lords of Session or of Justiciary at *Edinburgh*, or by the Circuit Courts of Justiciary, on the application of any Two or more Justices of the Peace.

28. Persons summoned not to be exempt on

26 And be it Enacted, That no person shall be exempt from the jurisdiction of the said Justices in any cause raised under this Act

account of privilege.

on account of privilege, as being a member of any Court of Justice, or otherwise.

29. No Solicitor or Procurator shall be capable of acting under this Act.

And be it further Enacted, That no Solicitor or Procurator in any inferior Court in *Scotland*, or the partner of any such person, shall act as a Justice of Peace in any county in *Scotland* during such time as such Solicitor, Procurator or Partner of any such person shall continue in the business or practice of Solicitor or Procurator in any inferior Court.

30. Act not to extend to any Debt where the Title of Lands is in question, or to cases of Wills, &c.

Provided always, and be it Enacted, That this Act or any thing herein contained shall not extend to any debt or demand where the right or title to any lands, tenements or hereditaments is brought in question, nor to any debt, matter or thing that shall or may arise upon or concerning the validity of any last Will or Testament or Contract of Marriage, although the same shall not amount to the sum of One hundred Pounds *Scots*, nor to any debt for any money or thing won at or by means of any horse-race, cock-match, or any kind of gaming or play, or any debt or demand for or on account of any spirituous liquors; any thing herein contained to the contrary in anywise notwithstanding.

31. Construction of Terms used in this Act.

And be it Enacted, That in all cases in this Act, or affecting the construction of this Act, the word "Summons" shall include complaint or petition; the words "Court," "Justice of Peace Court," or "Justices of the Peace," or "Justices," shall be held to mean and include a Court of Her Majesty's Justices of the Peace, or any Two or more of them, or any one of them in cases where one of them is legally authorized to act; that the words "Clerk" or "Clerk of Court," shall include Clerk of the Peace; and the words "Clerk," "Clerk of Court," or "Clerk of the Peace" shall include his deputies; the word "Constable" shall include Peace Officer, or other Officer of the Justices; the word "Person" to extend to a partnership, body 27 politic, corporate or collegiate, as well as an individual; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing, and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things; and every word importing the masculine gender only shall extend and be applied to a female as well as a male: Provided always, That those words and expressions occurring in this clause to which more than one meaning is attached, shall not have the different meanings given to them by this clause in those cases in which there is any thing in the subject or context repugnant to such construction.

32. Act may be altered, &c. this Session.

And be it Enacted, That this Act may be repealed, altered or amended by any Act or Acts to be passed during the present Session of Parliament.

SCHEDULES

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SCHEDULES

TO WHICH THE FOREGOING ACT REFERS.

SCHEDULE (A.)

No. 1.—*Summons.*

Her Majesty's Justices of the Peace of the Shire of
to Constables of Court, jointly and severally.

WHEREAS *A. B.* [*design him*], Pursuer, complaints that *C. D.* [*design him*], Defender, is owing to the Pursuer the sum of conform to a particular account [*or*, statement] thereof herewith produced, which the said Defender refuses to pay: Therefore the said Defender ought to be decerned and ordained to make payment thereof to the Pursuer, with the expenses: Therefore you are lawfully to summon the said Defender to compear before us or any of us in the Court House of upon the day of at of the clock, to answer at the Pursuer's instance in the said matter, with certification in case of failure of being held as confessed, requiring to deliver to the Defender a copy of the Account sued for; and that you cite Witnesses and Havers for both parties to compear at the said place and date to give evidence in the said matter, and in the meantime that you arrest in security the goods and effects, debts and sums of money, belonging to the Defender, as accords of law. Given under the hand of the Clerk of Court the day of

J. P. Clerk.

No. 2.—*Citation of Defender.*

C. D., Defender, above designed, You are hereby summoned to appear and answer before the Justices in the matter, and at the time and place, and under the certification set forth in the above copy of the Summons against you. 29

This Notice, with a copy of the particular Account sued for, served upon the day of
by me.

J. T. Constable.

No. 3.—*Execution of Citation.*

Upon the day of Eighteen hundred and I duly summoned the above designed *C. D.*, Defender, to appear and answer before the Justices in the matter, and at the time and place, and under the certification above set forth. This I did by leaving a copy of the above summons, with the citation thereto annexed, and a copy of the particular account sued for, for the said defender [in his hands personally, *or otherwise, as the case may be.*]

J. T. Constable.

No. 4.—*Executian of Notice of counter Claim by Defender against Pursuer.*

Upon the day of I gave notice to *A. B.*, Pursuer of a counter account [*or*, claim] intended to be pleaded against him by *C. D.*, Defender, in the small debt action to which the said Defender was summoned to appear before the Justices of Peace at upon the day of at
of the clock. This I did by leaving a copy of the said 30
account [*or*, claim] for the said Pursuer [in his hands personally, *or otherwise, as the case may be.*]

J. T. Constable.

No. 5.—*Citation of Witnesses.*

E. F. [*design him*], you are hereby summoned to appear before the Justices of the shire of in the Court House at upon the day of Eighteen hundred and at of the clock, to bear witness for the [Pursuer *or* Defender, *as the case may be,*] in the summons at the instance of *A. B.* [*design him*] against *C. D.* [*design him*].

This Notice served on the day of

No. 6.—*Execution of Citation of Witnesses.*

Upon the day of Eighteen hundred and I duly summoned *E. F.*, *&c.* [*design them*] to appear before the Justices of the shire of in the

Court House at upon the day of
Eighteen hundred and at of
the clock, to bear witness for the in the summons
at the instance of *A. B.* [*design him,*] against *C. D.* [*design him*].
This I did by delivering a just copy of citation, signed by me, to the
said *E. F.*, *&c.* [personally, *or otherwise, as the case may be.*]

J. T. Constable.

No. 7.—*Decree for Pursuer.*

31 At the day of
Eighteen hundred and Her Majesty's Justice of
the Peace for the shire of fined the before-designed
C. D., Defender, liable to the also before-designed *A. B.*, Pursuer, in
the sum of with
of expenses, and decern and ordain instant execution by arrestment,
and also execution to pass hereon by poinding and sale [and imprisonment, *where still competent,*] after free days.

J. P. Clerk.

No. 8.—*Decree of Absolvitor, with Expenses.*

At the day of
Eighteen hundred and Her Majesty's Justices of
the Peace for the shire of assoilzie the before-designed *C. D.*, Defender, from the within summons, and find the
before-designed *A. B.*, Pursuer, liable to him in the sum of
of expenses, the expense of extracting the Decree
included, and decern and ordain instant execution by arrestment, and
also execution to pass hereon by poinding and sale after
free days.

J. P. Clerk.

No. 9.—*Charge on Decree.*

[*Here prefix an exact Copy of the Decree.*]

C. D. [*design him as in summons*], you are hereby charged to implement the Decree of which the above is a copy within six days from
32 this date, under pain of poinding and sale [and imprisonment, *if the*
fact be so], without further notice.

J. T. Constable.

No. 10.—*Execution of Charge.*

[To be on the same Paper with the Summons and Decree.]

Upon the day of Eighteen hundred and I duly charged *C. D.*, before designed, to implement the above Decree within the time and under the pains therein expressed. This I did by delivering a just Copy of the above Decree, and a Charge thereto annexed, subscribed by me to the said *C. D.* [personally, *or as the case may be*].

J. T. Constable.

SCHEDULE (B.)

Arrestment on the Dependence of an Action

By virtue of a Warrant of the Justices of the shire of given under the hand of the Clerk at on the day of , for Arrestment on the Dependence of an Action raised before the said Justices at the instance of *A. B.* [*design him*], Pursuer, against *C. D.* [*design him*], Defender, I hereby fence and arrest in the hands of you *G. H.* [*design him*] all sums of money owing by you to the said Defender, or to any other person for his use and behoof, and all goods and effects in your custody belonging to the said Defender, and that to an amount or extent not exceeding the value of ; all to remain under sure fence and arrestment at the Pursuer's instance until due consignation be made, or until sufficient caution be found as accords of law. This I do on the day of 35

J. T. Constable.

Execution of Arrestment on the Dependence of an Action.

[To be on the same Paper with the Warrant of Arrestment.]

Upon the day of Eighteen hundred and between the hours of and by virtue of the foregoing Warrant, I lawfully fenced and arrested in the hands of *G. H.* [*design him*] all sums of money owing by him to the foresaid *C. D.*, Defender, or to any other person for his use and behoof, and all goods and effects in the custody of the

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the said Arrestee belonging to the said Defender, and that to an amount or extent not exceeding the value of all to remain under sure fence and arrestment at the foresaid complainer's instance until due consignation be made, or until sufficient 36 caution be found as accords of law. This I did by delivering a just copy of arrestment, subscribed by me, to the said arrestee personally [*or as the case may be*].

J. T. Constable.

Bond or Enactment of Caution for loosing Arrestment.

At on the day of Eighteen hundred and compeared *K. L.* [*design him*], who hereby judicially binds himself, his heirs, executors and successors, as cautioners acted in the Justice of the Peace Books of the shire of for *C. D.* [*design him*], common debtor, against whom arrestment was used at the instance of *A. B.* [*design him*] in the hands of *G. H.* [*design him*] on the day of in virtue of [*describe the warrant*], dated the day of , that the sums of money, goods and effects owing or belonging to the said common debtor, arrested as aforesaid, shall be made forthcoming as accords of law.

K. L.

Warrant for loosing Arrestment used on the Dependence of an Action.

Whereas arrestment was used on the dependence of an action at the instance of *A. B.* [*design him*] against *C. D.* [*design him*], in the hands of *G. H.* [*design him*], on the day of by virtue of a warrant of the Justices of the shire of given under the hand of the Clerk at the day of : And whereas the said *C. D.* has now made sufficient consignation in the hands of the Clerk of [*or, if caution has been found, say*] has found sufficient caution acted in the Justice of Peace Court Books of by *K. L.* 37 [*design him*] his cautioner [*here state the nature of the caution*], in order to the loosing of the said arrestment, warrant for loosing the said arrestment is hereby granted accordingly. Given under the hand of the Clerk at the day of .

J. P. Clerk.

Intimation of loosing Arrestment.

[*To be on the same Paper with a Copy of the foregoing Warrant.*]

G. H. [*design him*], take notice, that by virtue of the Warrant, whereof the above is a Copy, the arrestment on the dependence of the action above-mentioned, used in your hands at the instance of the foresaid *A. B.* against the foresaid *C. D.*, is loosed and taken off. This Notice served on the day of by me.

J. T. Constable.

Execution of Intimation of loosing Arrestment.

[*To be on the same Paper with the original Warrant for loosing the Arrestment.*]

Upon the day of Eighteen hundred and I duly intimated the above Warrant to *G. H.* [*design him*], Arrestee: This I did by delivering a full Copy thereof and intimation thereon, subscribed by me, to the said *G. H.*, personally [*or as the case may be.*]

J. T. Constable.

SCHEDULE (C.)

Summons or Complaint in cases of Forthcoming.

Her Majesty's Justices of the Shire of to
Constables, jointly and severally.

Whereas *A. B.* complains that *C. D.*, common Debtor, is owing the Pursuer the sum of , contained in [*describe shortly* 38
the Decreet by which the Debt is constituted], and that the Pursuer on the day of years, in virtue of a Warrant by dated the day of , arrested in the hands of *G. H.* [*design him*], Arrestee [*here insert the terms of the arrestment used*], which the said Arrestee now refuses to make forthcoming: Therefore the said Arrestee, and the said common Debtor for his interest, ought to be decerned and ordained to make forthcoming, pay and deliver to the Complainer of the money, goods and effects arrested as aforesaid, or so much thereof as will satisfy and

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and pay the said sum of owing to the Pursuer as aforesaid: Therefore lawfully summon the said Arrestee, and the said common Debtor for his interest, to compear before us or any of us in the Court House at upon the day of years at of the clock, to answer at the Pursuer's instance in the said matter, with certification in case of failure of being held as confessed; and that you cite Witnesses and Havers for both Parties to compear at the said place and date, to give evidence in the said matter. Given under the hand of the Clerk at the day of years.

J. P. Clerk.

[*The Citations and Executions, and Decree for the Defender, with expenses, may be the same as in Schedule* (A.)].

Decree for the Pursuer in Cases of Forthcoming.

AT the day of One thousand eight hundred and Her Majesty's Justices 39 for the Shire of decern and ordain the before-designed Defender, to make forthcoming, pay, and deliver to the also before-designed Pursuer, [*if the Arrestee has money arrested in his hands, the rest of the judgment will be the same as in ordinary cases; if there are goods and effects to be made forthcoming, the rest of the judgment will be as follows*:] the arrested goods and effects following; (*videlicet*) and grant warrant to sell the same, or so much thereof as will satisfy the sum of and of expenses of Process, and the expense of Sale; and failing the said Defender making forthcoming, and delivering the said goods and effects within then to make payment to the said Pursuer of the said sum of ; for recovery of which sums, the said period being elapsed without forthcoming and delivery of the said goods and effects, ordains instant execution by Arrestment, and also execution to pass hereon by Poinding and Sale after free days.

J. P. Clerk.

SCHEDULE (D.)

No.	Dates of Complaints.	Pursuers.	Defenders	Sums.	How due.	By what Officer.	Interlocutors and Decrees.

N.B.—After the Name of each Pursuer and Defender let the letter P. or A. be added, in order to mark whether the party was present or absent when the Cause was called; let Expenses be also entered under the head of Interlocutors.

SCHEDULE (E.)

Report of Poinding and Sale.

[*To be varied according to circumstances.*]

Report of the Poinding and Sale at the instance of *A. B.* [*design him*] against *C. D.* [*design him*].

Lots.	EFFECTS.	Appraised at			Sold at		
		£.	*s.*	*d.*	*£.*	*s.*	*d.*
1	An Eight-day Clock - - - - - -	4	–	–	4	10	–
2	Six Chairs, at 6*s.* - - - - -	1	16	–	1	18	–
3	One Table - - - - - - -	–	8	–	–	8	–
4	One Chest of Drawers - - - - -	1	12	–	1	12	–
		7	16	–	8	8	–

Upon the day of One thousand eight hundred and between the hours of and by virtue of a Decree of the Justices of Peace of given under the hand of the Clerk at on the day of at the instance of *A. B.*, above designed, against *C. D.*, above designed, for the payment of the sums of I passed with

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with the witnesses and appraisers after named and designed to and then and there, after demanding payment of the sums
41 contained in said decree past due, and payment not being made, I poinded the effects above enumerated belonging to the said debtor, and after making an inventory or list thereof, and getting the same duly appraised on oath at the several values respectively above specified in the first column, and amounting in all to [*here insert the amount in words*], and leaving a copy of such inventory or list and appraisement with the said debtor personally [*or as the case may be*], I carried the said effects to the of [*or as the case may be*], and there upon the day of betwixt the hours of and and after public notice of at least hours, I sold the said effects by public roup to the highest bidder at the price above specified in second column, for each lot respectively,* and amounting in all to [*here insert the amount in words*]. These things were so done before and with *O. P.* and *Q. R.* [*design them*], witnesses and appraisers, in the premises, hereto with me subscribing.

O. P. Witness and Appraiser. *J. T.* Constable.
Q. R. Witness and Appraiser.

Reported to the Clerk of the Peace of the Shire of
the day of by me
J. T. Constable.

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* *If the effects are not sold, the tenor of the report must be altered according to the state of the fact; for instance,* "I exposed the said goods and effects to public sale, but no person having offered the appraised value, therefore I declared the same to belong to the said *A. B.* at the said respective appraised value in payment to that
42 amount of the sums in said decree." *In case the goods poinded, or part of them, shall sell for more than the sums in the decree and expenses of poinding and sale, say,* "I sold part of the said effects, viz. Lots 1, 2, and 3, by public roup, to the highest bidder, at the prices above specified in the second column, for each of said Lots respestively, and amounting in all to [*here insert the amount in words*]; and I returned to the said debtor the sum of being the overplus of the price after payment of the sums decerned for part due, and the sum of being the expenses of poinding and sale, conform to the Act of Parliament; and I also returned to the said debtor the effects specified in the other Lots above enumerated."

Justice of Peace Clerks, Scotland.

A

BILL

INTITULED,

AN ACT for the more effectual Recovery of Small Debts in the Justice of Peace Courts in *Scotland.*

Ordered, by The House of Commons, *to be Printed,*
7 *July* 1837.

491.

3 February 1837.—7 WILL. IV.

A

BILL

For the more effectual Recovery of Small Debts in the Sheriff Courts, and for establishing Circuit Courts for the Trial of Small Debt Causes by the Sheriffs, in Scotland.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble:

10 G. 4. c. 55.

WHEREAS an Act was made in the tenth year of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act for the more effectual Recovery of Small Debts, and for diminishing the Expenses of Litigation in Causes of small Amount in the Sheriff Courts in Scotland," the provisions of which have been found beneficial; but experience has pointed out certain alterations by which its benefits will be extended and rendered more effectual; and it is expedient that such alterations, and the former provisions should be consolidated in one Act; BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the said recited Act shall be, and the same is hereby Repealed from and after the *First* day of *January* next, save and except as to such Causes as shall have been commenced under the authority of the said recited Act before the said *First* day of *January* next, and shall be then depending, all which Causes shall be carried to a conclusion according to the Rules prescribed by the said Act, notwithstanding this Act; and this Act shall commence and take effect from and after the said *First* day of *January* next.

1.
Recited Act repealed, except as to Causes commenced.

2\.
Sheriffs may hear and determine Causes for Sums under 8*l.* 6*s.* 8*d.* sterling in a summary way.

And be it Enacted, That it shall be lawful for any Sheriff in Scotland within his county, to hear, try and determine in a summary way, as more particularly hereinafter mentioned, all Civil Causes, and all prosecutions for statutory Penalties, as well as all Maritime Civil Causes and Proceedings that may be competently brought before him, wherein the debt, demand, or penalty in question shall not exceed the value of *Eight Pounds Six Shillings and Eight-pence* sterling, exclusive of expenses and fees of extract: Provided always, That the pursuer or prosecutor shall in all cases be held to have passed from and abandoned any remaining portion of any debt, demand or penalty beyond the sum actually concluded for in any such Cause or Prosecution.

3\.
Providing Forms of Proceedings.

And be it Enacted, That all such Causes and Prosecutions which the pursuers or prosecutors thereof shall choose to have heard and determined according to the summary mode hereby provided, shall proceed, except as hereinafter provided, upon summons or complaint, agreeably to the Form in Schedule (A). annexed to this Act, and containing warrant to arrest upon the depending Action, stating shortly the origin of debt or ground of Action, and concluding against the defender; which summons or complaint, being signed by the Sheriff Clerk, shall be a sufficient warrant and authority to any Sheriff's officer for summoning the defender to appear and answer at the next Sheriff Court after the date of the citation, not being sooner than upon the *Sixth* day after such citation; and the same, or the copy thereof, served on the defender, shall also be a sufficient warrant for summoning such witnesses and havers as either party shall require; and a copy of the said summons or complaint, with the citation annexed, and also a copy of the account, if any, shall be served at the same time by the Sheriff's officer on the defender personally, or at his dwelling-place; and the officer summoning parties, witnesses or havers, shall in all cases under this Act return an execution of citation signed by him, or shall appear and give evidence on oath of such citation having been duly made; and all such citations given by an officer alone without witnesses, and executions thereof subscribed by such officer, shall be good and effectual to all intents and purposes.

4\.
Causes of higher value than 8*l.* 6*s.* 8*d.* coming to be below 8*l.* 6*s.* 8*d.* may be remitted to the Small Debt Roll.

And be it Enacted, That in any Cause before the Sheriff's Ordinary Court, in which the debt, demand or penalty in question shall have exceeded the value of *Eight Pounds Six Shillings and Eight-pence* sterling, but from interim decree or otherwise the value shall, previous to the closing of the Record, be reduced so as not to exceed *Eight Pounds Six Shillings and Eight-pence* sterling, exclusive of expenses and fees of extract, it shall be competent to the Sheriff, if he shall think proper, and with the consent of the pursuer, to remit such Cause to such of his Small Debt Court Rolls as may be proper, either of his own motion, or upon the motion of any party in the Cause: Provided, That if the pursuer shall not consent, the provisions of this Act as to the fees or expenses to be allowed in causes below the value of *Eight Pounds Six Shillings and Eightpence,* brought not according to the summary form herein provided, shall be applied to such causes subsequent to the proposition for Remit, if the Sheriff shall think proper so to modify the expenses: And provided also, That when a Case has been remitted by the Sheriff Substitute from the Ordinary Court to the Small Debt Court, an appeal shall be competent to the Sheriff against such Remit, but no reclaiming Petition shall be allowed against such Remit.

5.
Recovery of Rents not exceeding 8*l.* 6*s.* 8*d.*

And be it Enacted, That it shall be competent for the Sheriff in the Small Debt Courts established or to be established under this Act to hear, try and determine, in the summary form hereby provided, applications by landlords or others having right to the Rents and Hypothec, for sequestration and sale of a tenant's effects for recovery of rent, provided the rent or balance of rent claimed shall not exceed *Eight Pounds Six Shillings and Eight-pence* sterling; and the summons and warrant of sequestration and procedure shall be agreeable to the forms directed in Schedule (B.) annexed to this Act; and the officer, when he executes the warrant, shall get the effects appraised by *Two* persons, who may also be witnesses to the sequestration; and an inventory or list of the effects, with the appraisement, shall be given to or left for the tenant, who shall be cited in manner and to the effect aforesaid; and an execution of the citation and sequestration, with the appraisement of the effects, shall be returned to the Clerk within *Three* Days; and on hearing the application in manner provided by this Act relative to other Causes, the Sheriff shall dispose of the Cause as shall be just, and may either recall the sequestration in whole or in part, or pronounce decree for the rent found due, and grant warrant for the sale of the sequestrated effects on the premises or at such other place and on such notice as he shall by general or special regulation direct, and failing such directions, the sale shall be carried into effect in the manner hereinafter directed for the sale of poinded and sequestrated effects; and if, after sequestration, the tenant shall pay the rent claimed, with the expenses, to the pursuers, or consign the same, with *Two* Pounds sterling to cover expenses, in the hands of the Clerk of Court, the sequestration shall ipso facto be recalled, in case of payment, on the Clerk writing and signing on the back of the summons or warrant the words " Payment made," which, on evidence being produced to him of payment of the rents claimed, with expenses, he is hereby required to do, and in case of consignation, after the Clerk shall in like manner have written and signed the words, " Consignation made," on the same being intimated by an officer of court to the sequestrating creditor.

6.
Arrestment of Goods of Defender

And be it Enacted, That the pursuer of any civil Cause, including Maritime Civil Causes and Proceedings, may use Arrestment, on the dependence of the Action, of any money, goods or effects to an amount or extent not exceeding the value of *Ten* Pounds sterling, owing or belonging to such defender, in the hands of any third party, either within the county in which such warrant shall have been issued, or in any other county or counties: Provided always, That before using such warrant in any other county, it shall be presented to and indorsed by the Sheriff Clerk of such other county, who is hereby required to make such indorsement on payment of the fee hereinafter mentioned: And provided also, That any arrestment laid on under the authority of this Act shall, on the expiry of *Three* Months from the date thereof, cease and determine without the necessity of a decree or warrant of loosing the same, unless such arrestment shall be renewed by a special warrant or order, duly intimated to the arrestee, in which case it shall subsist and be in force for the like time and under the like conditions as under the original warrant, or unless an Action of Forthcoming or Multiplepoinding, in manner hereinafter provided, shall have been raised before the expiry of the said period of *Three* Months, in which case the arrestment shall subsist and be in force until the termination of such Action of Forthcoming or Multiplepoinding.

7.
For providing how Arrestments may be loosed.

And be it Enacted, That when any Arrestment shall have been used on the dependence of any Action, it shall be competent to the defender to have such Arressment loosed on lodging with the Sheriff-Clerk of the County in which such Arrestment shall have been used, a bond or enactment of caution, by *One* or more good and sufficient cautioners, to the satisfaction of such Sheriff-Clerk, agreeably to the form in Schedule (C.) annexed to this Act, or on consigning in the hands of such Sheriff-Clerk the amount of the debt or demand, with *Five* Shillings for expenses in cases of Actions for sums below *Five* Pounds, and *Ten* Shillings in cases of higher amount, or on producing to such Sheriff-Clerk evidence in of the defender having obtained decree of absolvitor in the Action, or of his having paid the sums decerned for, or of his having consigned in the hands of the Clerk of the Court in which the Action depended the sums decerned for, or the amount of the debt or demand, and expenses as aforesaid, when no decree has yet been pronounced; and a crtificate by the Sheriff Clerk of the county in which such Arrestment shall have been used, of a bond or enactment of caution to the extent of the debt or demand and expenses having been lodged with him, or of consignation as above provided having been made in his hands, shall be a sufficient authority for obtaining a warrant for loosing any other Arrestment used on the dependence of the same Action, without any other caution being found or any other consignation being made by the defender: Provided, That if decree shall be given against the principal party, the extract of the decree may be issued against the cautioner as well as the principal, to the extent of the cautioner's liability under his bond or enactment.

8.
Rendering Arrestments effectual.

And be it Enacted, That any person entitled to pursue an Action of Forthcoming, where the sum or demand sought to be recovered under the Forthcoming shall not exceed the value of *Eight Pounds Six Shillings and Eight-pence* sterling, exclusive of expenses and fees of extract, who shall choose to have the same heard and determined according to the summary mode provided by this Act, shall proceed by summons or complaint agreeably to the Form in Schedule (D.) annexed to this Act, concluding for payment of the sum for which Arrestment has been used, or for delivery of the goods and effects arrested, which summons or complaint, being signed by the Sheriff Clerk of the county in which the arrestee resides, shall be a sufficient warrant and authority to any Sheriff's officer for summoning the arrestee and the common debtor to appear and answer at a Sheriff Court of the county in which the arrestee resides, the same not being sooner than the *Sixth* day after the date of citation, and also for summoning witnesses and havers for all parties; and in the event of the common debtor not residing and not being found within the county in which such Action of Forthcoming shall be brought, he may be cited by any Sheriff's officer in any other county on the said warrant, the same being first presented to and indorsed by the Sheriff Clerk of such other county, who is hereby required to indorse the same on payment of the fee hereinafter mentioned, to appear at a Sheriff Court in the county in which the arrestee resides, the same not being sooner in such case than on the *Twelfth* day after the date of citation: Provided always, That the arrestee and the common debtor shall be cited to appear on the same Court-day, and that a copy of the said summons or complaint, with the citation annexed thereto, shall be served by the officer on every defender personally, or at his dwelling-place, all in the same manner as hereinbefore provided in other causes and prosecutions under authority of this Act, but always allowing to a party cited to appear in the Sheriff Court of a different county from that in which the citation shall be given *double* the time required by this Act to be allowed to a party cited to appear in the Sheriff Court of the county within which the citation shall be given.

9.
Actions of Multiplepoinding.

And be it Enacted, That where any person shall hold a fund which shall not exceed the value of *Eight Pounds Six Shillings and Eight-pence*, which shall be claimed by more than one party under arrestments or otherwise, it shall be competent to raise a summons of Multiplepoinding in the Small Debt Court, established or to be established under this Act, to the jurisdiction of which the holder of the fund shall be amenable, which summons and procedure thereon shall be agreeable to the Form in Schedule (E.) annexed to this Act; and the claimants and common debtors, and also the holder of the fund, if the process be raised in his name by any other party interested, shall be cited in manner directed to be followed in Actions of Forthcoming raised under this Act; and it shall be competent to the Sheriff, when he shall see cause, to order such further intimation or publication of the Multiplepoinding as he may think proper by advertisement, in any newspaper or otherwise; but no judgment preferring any party to the fund in medio shall be pronounced at the first calling of the Cause, or until due intimation has been given, such as may appear satisfactory to the Sheriff, in order that all parties may have an opportunity of lodging their claims on the fund in medio, and such claims shall be prepared agreeably to the Form in Schedule (E.); and the Sheriff shall hear, try and determine the cause as nearly as may be in the summary Form provided by this Act.

10.
Counter Claims.

And be it Enacted, That where any defender intends to plead any counter account or claim against the debt, demand or penalty pursued for, the defender shall serve a copy of such counter account or claim, by an officer on the pursuer, in the Form set forth in Schedule (A.) hereunto annexed, or to the like effect, at least *Two* free days before the day of appearance, otherwise the same shall not be heard or allowed to be pleaded, except with the pursuer's consent, but action shall be reserved for the same.

11.
Compelling Attendance of Witnesses.

And be it Enacted, That every officer to whom any warrant as aforesaid for citing witnesses and havers shall be entrusted, shall cite such witnesses or havers as any party shall require; and all such warrants shall have the same force and effect in any other county as in the county where they are originally issued, the same being first presented to and indorsed by the Sheriff Clerk of such other county, who is hereby required to indorse the same on payment of the fee hereinafter mentioned; and if any witness or haver, duly cited on a citation of at least *Forty-eight* Hours, shall fail to appear, he shall forfeit and pay a penalty not exceeding *Forty* Shillings, unless a reasonable excuse be offered and sustained; and every such penalty shall be paid to the party citing the witness or haver, and shall be recovered in the same manner as other penalties under this Act; without prejudice always to letters of second diligence for compelling witnesses and havers to attend, as at present competent; and it shall be competent to the Sheriff of any county where a witness or haver resides, who has failed to comply with the citations originally issued, to grant letters of second diligence for compelling the attendance of such witnesses or havers to give evidence in such county before a Commissioner named by the Sheriff in whose Court the cause depends; and it shall be no objection to any witness that such witness has appeared without citation, or without having been regularly cited.

12. Hearing and Judgment.

And be it Enacted, That when the parties shall appear, the Sheriff shall hear them vivâ voce, and examine witnesses or havers upon oath, and may also examine the parties, and may put them or any of them upon oath in case of a reference being made, and if he should see cause may remit to persons of skill to report, or to any person competent to take and report in writing, the oaths or evidence of parties or witnesses or havers who may be unable to attend without great inconvenience, and thereupon the Sheriff may pronounce judgment; and the decree, stating the amount of the expenses (if any) found due to any party, (which may include personal charges, if the Sheriff think fit,) and containing warrant for arrestment, and for poinding and imprisonment when competent, shall be annexed to the summons or complaint, and on the same paper with it, agreeably to the Form in Schedule (A.) annexed to this Act, or to the like effect; which decree and warrant, being signed by the Clerk, shall be a sufficient authority for instant arrestment, and also for poinding and sale, and imprisonment where competent, after the elapse of *Ten* free Days from the date of the decree, if the party against whom it shall have been given was personally present when it was pronounced, but if he was not so present, poinding and sale and imprisonment shall only proceed after a charge of *Ten* free Days, by serving a copy of the complaint and decree on the party personally or at his dwelling-place; and if any decree shall not be enforced by poinding or imprisonment within *a year* from the date thereof, or from a charge for payment given thereon, such decree shall not be enforced without a new charge duly given as aforesaid.

Arrestment.

13.
Procurators, &c. not to appear or plead, nor Pleadings be reduced to writing, without leave of Court.

And be it Enacted, That no Procurators, Solicitors, nor any persons practising the law, shall be allowed to appear or plead for any party without leave of the Court upon special cause shown; nor shall any of the pleadings be reduced to writing, or be entered upon any record, unless with leave of the Court first had and obtained in consequence of any difficulty in point of law or special circumstances of any particular case: Provided always, That when the Sheriff shall order any pleadings to be reduced to writing, every case in which such order shall be made shall thenceforth be conducted according to the ordinary forms and proceedings in civil causes and in prosecutions for statutory penalties, and shall be disposed of in all respects as if this Act had not been passed.

14.
Parties not appearing or making sufficient excuse to be held confessed.

And be it Enacted, That any defender who has been duly cited personally, or by two citations at his dwelling-place, failing to appear personally, or by one of his family, or by such person as the Sheriff shall allow, shall be held confessed, and the other party shall obtain decree against him; and in like manner if the pursuer or prosecutor shall fail to appear personally, or by one of his family, or by such person as the Sheriff shall allow, the defender shall obtain decree of absolvitor; unless in either case a sufficient excuse for delay shall be stated, on which account, or on account of the absence of witnesses, or any other good reason, it shall at all times be competent for the Sheriff to adjourn any Case to the next or any other Court-day, and to ordain the parties and witnesses then to attend.

15.
Hearing in cases of Decree in absence.

And be it Enacted, That where a decree has been pronounced in absence of a defender, it shall be competent for him, upon consigning the expenses decerned for, and the further sum of *Ten* Shillings to meet further expenses in the hands of the Clerk at any time before a charge is given, or, in the event of a charge being given, before implement of the decree has followed thereon, provided in the latter case the period from the date of the charge does not exceed *Three* Months, to obtain from the Clerk a warrant, signed by him, sisting execution till the next Court-day, or to any subsequent Court-day to which the same may be adjourned, and containing authority for citing the other party, and witnesses and havers for both parties; and the Clerk shall be bound to certify to the Sheriff on the next Court-day every such application for hearing and sist granted; and such warrant, being duly served upon the other party personally, or at his dwelling-place, in the manner provided in other cases by this Act, shall be an authority for hearing the Cause; and in like manner, where absolvitor has passed in absence of the pursuer or prosecutor, it shall be competent for him, at any time within *One* calendar Month thereafter, upon consigning in the hands of the Clerk the sum awarded by the Sheriff in his decree of absolvitor as the expenses for the defender and his witnesses, with the further sum of *Five* Shillings to meet further expenses, to obtain a warrant, signed by the Clerk, for citing the defender and witnesses for both parties, which warrant, being duly served upon the defender personally, or by two citations at his dwelling-place, in the manner provided in other cases by this Act, shall be an authority for hearing the Cause as hereby provided in the case of a hearing at the instance of the defender, the said sum of expenses awarded by the Sheriff and consigned as aforesaid, being in every case paid over to the other party, unless the contrary shall be specially ordered by the Court; and all such warrants for hearing shall be in force, and may be served by any Sheriff officer in any county, without indorsation or other authority than this Act.

16.
Books of Causes, &c. to be kept.

And be it Enacted, That the Sheriff Clerk shall keep a Book, wherein shall be entered all Causes conducted under the authority of this Act, setting forth the names and designations of the parties, and whether present or absent at the calling of the Cause, the nature and amount of the claim and date of giving it in, the mode of citation, the several deliverances or interlocutors, and the final decree, with the date thereof; which Book shall be signed each Court-day by the Sheriff; and the said entries by the Clerk shall be according to the Form in Schedule (F.) annexed to this Act, or with such addition as the Sheriff shall appoint; and the Sheriff Clerk shall also keep a Book or Books containing a register or registers of all indorsations of decrees and warrants issued in other counties, and of all warrants for arrestment on the dependence, and of all loosings of arrestment, and of all reports of poindings or sequestrations and sales of goods and effects, which registers shall be open and patent at office hours to all concerned, without fee; and the Sheriff Clerk shall cause a copy of the roll of causes to be tried on each Court-day to be exhibited to the public on a patent part of the Court House at least *One* Hour before the time of meeting of such Court, and which shall continue there during the time the Court shall be sitting; and the Sheriff Clerk or an officer of court shall audibly call the Causes in such roll in their order.

17.
Power to direct Payment by Instalments.

And be it Enacted, That the Sheriff may, if he think proper, direct the sum or sums found due to be paid by instalments, *weekly*, *monthly* or *quarterly*, according to the circumstances of the party found liable, and under such conditions or qualifications as he shall think fit to annex.

18.
Decrees may be enforced in any other County.

And be it Enacted, That any decree obtained under this Act may be enforced where competent against the person or effects of any party in any other county, as well as in the county where the decree is issued: Provided always, That such decree, or an extract thereof, shall be first produced to and indorsed by the Sheriff Clerk of such other county, who is hereby required to make such indorsement on payment of the fee hereinafter mentioned.

19.
Appraisement and Sale of poinded and sequestrated Effects.

And be it Enacted, That the sequestration or poinding and sale shall be carried into effect by the officer in a summary way, by getting the effects sequestrated or poinded duly appraised by *Two* Persons, who may also be witnesses to the sequestration or poinding, and leaving an inventory or list thereof for the party whose effects are sequestrated or poinded, and carrying such effects to the nearest town or village, or in case the sequestration or poinding shall take place in a town or village, to the cross or most public place thereof, and selling the same to the highest bidder by public roup, between the hours of *Eleven* forenoon and *Three* afternoon, at the cross or such most public place, on previous notice of at least *Two* hours by the crier, but reserving to the Sheriff, by such general regulation, or special order in any particular case, as he shall think fit, to appoint a different hour or place for the sale, or a longer or different kind of notice to be given of the time of selling; and in sequestrations and poindings the overplus of the price, if there shall be any, after payment of the sums decerned for, and the expenses, if expenses are awarded, including what is allowed by this Act for sequestration or or poinding and sale, shall be returned to the owner, or consigned with the Sheriff Clerk, if the owner cannot be found; or if the effects are not sold, the same shall be delivered over at the appraised value to the creditor to the amount of the sum decerned for, and expenses, if awarded, and the allowances for sequestration or poinding and sale; and a report of the proceedings in the sequestration or poinding and sale and proceeds, or of the delivery of the effects, shall in every case be made by the officer to the Sheriff Clerk, within *Eight* Days thereafter, agreeably to the Form in Schedule (G.) annexed to this Act, or to the like effect; and where the Sheriff shall order a sale of goods or effects arrested, the same course of proceeding shall be adopted as is above directed in the case of poinding and sale; and no officer to whom the enforcement of decrees or warrants in cases falling under this Act may be committed shall be liable to any penalty, fine or punishment, for selling goods or effects under authority of such decrees or warrants by public auction, although such officer may not be licensed as an auctioneer, any thing in any Act or Acts to the contrary notwithstanding; and if any person shall secrete or carry off or intromit with any poinded or sequestrated effects in fraudem of the poinding creditors or of the landlord's hypothec, such person shall be liable to summary punishment by fine or imprisonment, as for contempt of Court, either at the instance of the private party, with or without the concurrence of the Procurator Fiscal, or at the instance of the Procurator Fiscal, or ex proprio motu of the Sheriff, besides being liable otherwise as accords of law.

20.
Actions for Damages by Riot, under 3 Geo. 4, c.33, and for recovery of Assessments authorized by 9 Geo. 4, c.39. may be determined by this Act.

And be it Enacted, That all actions of damages for compensation for loss or injury by the Act or Acts of any unlawful, riotous or tumultuous assembly in Scotland, or of any person engaged in or making part thereof, authorized to be brought by an Act passed in the third year of the reign of his late Majesty King George the Fourth, where the sum concluded for does not exceed *Ten* Pounds sterling, as also all actions for recovery of assessments by virtue of an Act passed in the ninth year of his said late Majesty's reign, intituled, "An Act for the Preservation of the Salmon Fisheries in Scotland," may be heard and determined in the summary way provided by this Act, and this, notwithstanding the amount of such assessments, shall exceed *Ten* Pounds sterling.

21.
Sheriffs to hold Circuit Courts for Small Debt Causes.
20 Geo. 2, c. 43.

10 Geo. 4, c.55. s. 17.

AND whereas by the Jurisdiction Act passed in the twentieth year of the reign of his Majesty King George the Second, it is provided, That Sheriffs may hold Itinerant Courts at such times and places within their respective jurisdictions as they shall judge expedient, or as shall be directed or ordered by his Majesty, his heirs and successors; and by the said recited Act of the tenth year of the reign of his late Majesty provision is made for the necessary accommodation for holding Courts for the purposes of the said Act, which the Sheriff should judge it expedient to hold at other than the usual places for holding the same: And whereas it is expedient to make better provision for holding Itinerant or Circuit Courts for the purposes of this Act; BE it Enacted, That the several Sheriffs of the several Sheriffdoms in *Scotland* shall, in addition to their ordinary Small Debt Courts, by themselves or their Substitutes, hold Circuit Courts for the purposes of this Act, at the places within each Sheriffdom, and for the number of times within each place in each year, as set forth in the Schedule (H.) annexed to this Act, at such times as they shall deem best and most convenient to fix for the general business of the county, if there shall be any Cause at such places at such times to try, but as nearly as may be at equal intervals between each Court, and shall remain at each such place until the Causes ready to be heard shall be disposed of; and each Sheriff Clerk, or a Depute appointed by him, is hereby required to attend at such places and times within his Sheriffdom, and to find the necessary accommodation for holding such Courts, all on his own charges and expenses in respect of the fees allowed by this Act.

22. Sheriff empowered to change Places and Times.

And be it Enacted, That the several Sheriffs of the several Sheriffdoms, with the consent and approbation of His Majesty's Principal Secretary of State for the Home Department, may from time to time change the places or number of times at which the said Circuit Courts are appointed to be held, or discontinue the same or any part of them in any Sheriffdom in which such Circuit Courts or any of them may be found unnecessary or inexpedient, or direct Circuit Courts to be held at such places in any Sheriffdom, although not mentioned in the said Schedule (H.), or in such additional places in counties mentioned in the said Schedule, as may seem necessary and proper; and all such additional Circuit Courts shall be held in terms of the provisions and directions of this Act.

23. Sheriff Clerks to appoint Deputes, and to give Notices.

And be it Enacted, That the Sheriff Clerk of each Sheriffdom shall attend personally, or appoint a Depute to act at each of the places at which Courts are hereby or may be appointed to be held in terms of this Act, and such Depute shall, in the absence of the principal Clerk, attend at and during the holding of such Circuit Courts, and shall thereat perform all the duties by this Act required to be performed by the Sheriff Clerk; and if such Depute shall not be resident in such place, the Sheriff Clerk may also appoint a proper person resident in such place, or in its immediate vicinity, to issue the summonses or complaints which may be applied for and issued under the provisions of this Act, and the principal Clerk shall give or cause to be given due intimation of the name, description, and residence of each person so appointed Depute Clerk, and of the person appointed to issue summonses and complaints as aforesaid, by notice in the Form set forth in Schedule (I.) hereunto annexed, and which notice, being signed by the Sheriff Clerk, shall, without being stamped, be a sufficient commission to such Sheriff Clerk Depute, to be affixed on or near the doors of the church of the parish within which such Court is to be held, and also, if he shall see cause, by advertisement in the newspaper or newspapers of the greatest reputed circulation in the neighbourhood and notice shall in like manner be given by the Sheriff Clerk, in the Form of Schedule (K.) hereunto annexed, of the times at which such Circuit Courts shall be fixed to be held: Provided always, That no person who shall act as Depute Clerk for the purposes of this Act, and for no other purposes, shall be thereby disqualified from acting as a Procurator before any Court, except the Small Debt Court, in which he shall act as aforesaid, or from being registered, or from voting under any Act or Acts of Parliament relative to the Election of Members of Parliament or of Magistrates of Burghs.

24. Actions to be brought in the place of

And be it Enacted, That each Sheriff shall, by a minute entered in the Sederunt Book of his Court, and published in such manner as

Defender's Domicile.

as he may think proper, and of which a printed copy shall be publicly affixed at all times on the walls of every Sheriff Court-room within his Sheriffdom, determine the parishes or parts of parishes which shall, for the purposes of this Act, be within the jurisdiction of each Small Debt Court to be held within his Sheriffdom as aforesaid; and all Causes shall be brought before the Court within the jurisdiction of which the defender shall reside, or to the jurisdiction of which he shall be amenable: Provided always, That if there shall be more defenders than one, in one cause of Action, who shall be amenable to the jurisdiction of different Courts, or if from any other cause the Sheriff shall be satisfied that such course shall be expedient for the ends of justice, it shall be competent to the Sheriff, upon summary application in writing, made by or for any pursuer lodged with the Sheriff Clerk, or upon verbal application made by or for any pursuer in open court, to order a summons or complaint to be issued, and the Cause to be brought before his Ordinary Small Debt Court, or before any of his Circuit Small Debt Courts, as shall appear most convenient; and such summons or complaint shall be issued accordingly, on the Sheriff writing and subscribing thereon the name of the Court before which the same is to be heard.

25.
Sheriff may adjourn Causes to any of his other Small Debt Courts.

And be it Enacted, That the Sheriff may, where the ends of justice and the convenience of the parties require it, adjourn and remove the further hearing of or procedure in any Sequestration, Multiplepoinding or any other cause from his Ordinary Small Debt Court to any of his Circuit Small Debt Courts, and from any of his Circuit Small Debt Courts to his ordinary or any other Circuit Small Debt Court, or to any diet of his Ordinary Court, to be there dealt with according to the provisions of this Act, or to any other time or place specially appointed for the purpose; and such order of adjournment and removal shall be held, due notice to the parties of such adjournment and removal being made, unless further notice shall be ordered.

26.
Sheriff of Moray may hold Courts at Grantown.

AND whereas in the upper district of Morayshire, which borders on the River Spey, there is no place in which such Circuit Courts as are hereinbefore provided can be conveniently held, but such Court could be conveniently held in the village of Grantown, situated in a detached part of the county of Inverness, in the immediate vicinity of the said district of Morayshire; BE it therefore Enacted, That it shall be competent to the Sheriff of Morayshire, or his Substitutes, to grant warrants and to hold Courts for the trial of all Causes competent under this Act, and to pronounce judgment therein, within the said village of Grantown, in the same way and to the same effect in all respects as if such Courts were held and warrants were granted and judgments pronounced within the said county of Moray.

27.
Sheriff and Sheriff Clerks' Expenses at Circuit Courts.

And be it Enacted, That an account of the travelling and other charges incurred by the Sheriff and Sheriff Clerks in going to, living at, and returning from the places where such Circuit Courts are held, shall be rendered annually in Exchequer with the other charges of the Sheriffs, and such accounts, being there audited, shall be allowed to an amount for the Sheriff not exceeding *Five* Pounds, and for the Sheriff Clerk not exceeding *One* Pound *Ten* Shillings for each Court: Provided, That the Lords Commissioners of His Majesty's Treasury shall have power at any time, if they shall think fit, to fix such sum, not exceeding as aforesaid, as shall be ascertained to be sufficient for such purposes, and thereafter to dispense with such annual accounts in so far as regards the said travelling and other charges.

28.
Decree not subject to Review, except as hereby provided.

And be it Enacted, That no decree given by any Sheriff in any cause or prosecution decided under the authority of this Act shall be subject to reduction, advocation, suspension or appeal, or any other form of review or stay of execution, other than provided by this Act, either on account of any omission or irregularity or informality in the citation or proceedings, or on the merits, or on any ground or reason whatever.

29.
Form of Review provided.

And be it Enacted, That it shall be competent to any person conceiving himself aggrieved by any decree given by any Sheriff in any cause or prosecution raised under the authority of this Act to bring the case by appeal before the next Circuit Court of Justiciary, or, where there are no Circuit Courts, before the High Court of Justiciary at Edinburgh, in the manner, and by and under the rules, limitations, conditions and restrictions contained in the before-recited Act passed in the twentieth year of the reign of his Majesty King George the Second, for taking away and abolishing the Heritable Jurisdictions in Scotland, except in so far as altered by this Act: Provided always, That such appeal shall be competent only when founded on the ground of corruption or malice and oppression on the part of the Sheriff, or on deviations in point of form from the statutory enactments, or on incompetency, including defect of jurisdiction of the Sheriff: And provided also, That such appeals shall be heard and determined in open Court; and it shall not be competent to produce or found upon any document not produced to the Sheriff when the case is heard, and to which his signature or initials have not been then affixed, which he is only to do if required, nor to found upon nor refer to the testimony of any witness not examined before the Sheriff, and whose name is not written by him when the case is heard upon the record copy of the summons, which he is to do when specially required to that effect: And provided further, That no sist or stay of the process and decree, and no certificate of appeal, shall be issued by the Sheriff Clerk, except upon consignation of the whole sum, if any, decerned for by the decree, and expenses, if any, and security found for the whole expenses which may be incurred and found due under the appeal.

30. Fees to be taken.

And be it Enacted, That the following and no other or higher Fees or Dues of Consignation shall be allowed to be taken for any matters done in any cause or prosecution raised under the authority of this Act:

CLERK'S FEES in CAUSES under this Act:

Summons, including Precept of Arrestment, *One* Shilling.
Each Copy for Service, *Sixpence.*
Entering in Procedure Book, *Sixpence.*
Renewed Warrant to arrest on Dependence, and entering in Book, *One* Shilling.
Loosing Arrestment, *One* Shilling.
Bond of Caution, *One Shilling and Sixpence.*
Second Diligence for compelling Witnesses or Havers to attend, *One* Shilling.
Decree, including Extract, if demanded, *One* Shilling.
Hearing after Decree in absence, *One Shilling and Sixpence.*
Indorsation of Decree or Warrant, and entering in Book, *One* Shilling.
Receiving Report of Sequestration and Appraisement, and entering in Book, *One* Shilling.
Receiving Report of Sale under Sequestration, and entering, *One* Shilling.
Receiving Report of Poinding and Sale, and entering, *One Shilling and Sixpence.*

OFFICERS' FEES, including ASSISTANTS:

First Citation of a Party, or Intimation of counter Claim, and Execution of Citation given personally, *One* Shilling.
Ditto, ditto, if Citation not given personally, *Sixpence.*
Citation of a Witness or Haver, *Sixpence.*
Charging on Decree, and Returning Execution of Charge, *One* Shilling.
Arrestment, and returning Execution thereof, *Sixpence.*
Intimation of loosing Arrestment, and execution thereof, *Sixpence.*
Poinding or Sequestration and Inventory, *Two Shillings and Sixpence.*
Sale and Report, *Two Shillings and Sixpence.*

Officer's Travelling Expenses, for each complete mile from the Court-house or the residence of the officer employed, the distance travelled in returning after execution of the duty not to be reckoned, *Sixpence.*

Assistants, each per mile, in the same manner, *Four-pence.*

CRIER'S FEE:

For calling each Cause, *One* Penny, payable when summons is issued.

31.
Table of Fees to be printed, and hung up.

And be it Enacted, That an exact copy of the immediately preceding section of this Act shall be printed on each summons or complaint, and on each service copy thereof, and shall also be at all times hung up in every Sheriff Clerk's Office and in every Sheriff Court Place during the holding of any Sheriff's Small Debt Court; and any Sheriff Clerk from whose office any summons or service copy thereof shall be issued, not having such copy of the said section printed thereon, or at any time omitting to have such copy hung up in his office, or in the Sheriff Court Place as aforesaid, or not causing the Roll of causes each Court-day to be publicly exhibited, or not causing the number and names of the parties in such roll to be called in their order as aforesaid, except with leave of the Sheriff, upon cause shown in open court, shall be liable in a penalty not exceeding *Forty* Shillings, to be recovered at the instance of any person who shall prosecute for the same, and to be disposed of as the Sheriff shall direct.

32.
Officers neglecting duty to be fined.

And be it Enacted, That in all or any of the cases above mentioned, where any decree or warrant shall have been indorsed as aforesaid, the Sheriff's officer of the county where such decree or warrant has been originally issued, as well as of any county wherein the same is indorsed, are hereby authorized and required to obey and enforce such decree or warrant within such other county; and any Sheriff's officer failing to report any sequestration or poinding and sale as above directed, or violating or neglecting any other duty intrusted to him under this Act, or wilfully acting contrary to any provision thereof, shall be liable in a penalty not exceeding *Forty* Shillings, to be recovered at the instance of any person aggrieved thereby, and to be disposed of as the Sheriff shall direct; reserving always all further claim of damages otherwise competent against any such officer, and without prejudice to the Sheriff's lawful authority to remove and punish all officers of his Court for misbehaviour or malversation in office.

33.
Privileged Persons not exempt.

And be it Enacted, That no person shall be exempt from the jurisdiction of the Sheriff in any cause or prosecution raised under the authority of this Act, on account of privilege, as being a member of the College of Justice.

And

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34. Courts may limit Fees in Causes not exceeding 10 *l.*

And be it Enacted, That in all causes and prosecutions wherein the debt, demand or penalty shall not exceed the value of *Ten* Pounds sterling, exclusive of expenses and fees of extract, which shall in future be brought or carried on before any court not according to the summary form herein provided, it shall be lawful for the Judge in such court, notwithstanding, to allow no other or higher fees or expenses to be taken or paid than those above mentioned.

35. Meaning of Words in this Act.

And be it Enacted, That in all cases in this Act, or in the Schedules hereto annexed, the word "Sheriff" shall be held to include Sheriff Depute and Steward Depute, and Sheriff Substitute and Steward Substitute; the words "Sheriff Substitute" to include Steward Substitute; the words "Sheriff Court" to include and apply to the Court of the Sheriff or Steward or their Substitutes; the words "Sheriff Clerk" to include Steward Clerk and Depute Sheriff Clerk and Depute Steward Clerk; the words "Sheriff Officer" or "Officer" to include Messenger at Arms; the word "Shire" or "County" to include Stewartry; the word "Sheriffdom" to include and be included in the words Shire, County or Stewartry; the word "Person" to extend to a partnership, body politic, corporate or collegiate, as well as an individual; the word "Landlord" to include any person having a right to exact rent, whether as owner, liferenter, heritable creditor in possession, principal tenant, or otherwise; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things; and every word importing the masculine gender only shall extend and be applied to a female as well as a male: Provided always, That those words and expressions occurring in this clause to which more than one meaning is attached, shall not have the different meanings given to them by this clause in those cases in which there is any thing in the subject or context repugnant to such construction.

36. Act may be repealed, &c.

And be it Enacted, That this Act may be repealed, altered, or amended by any Act or Acts to be passed during the present Session of Parliament.

SCHEDULES

To which the foregoing ACT refers.

SCHEDULE (A.)

No. 1.

Summons or Complaint in a Civil Cause.

A. B., Sheriff of the Shire of to
Officers of Court, jointly and severally.

Whereas it is humbly complained to me, by C. D. [design him], that E. F. [design him], Defender, is owing the Complainer the sum of [here insert the origin of Debt or ground of Action], which the said Defender refuses or delays to pay; and therefore the said Defender ought to be decerned and ordained to make payment, with legal interest from and after the [here insert the date], to the Complainer, with expenses: Herefore it is my will, that on sight hereof ye lawfully summon the said Defender to compear before me or my Substitute in the Court-house at upon the day of at of the clock, to answer at the Complainer's instance in the said matter, with certification, in case of failure, of being held as confessed; requiring you also to deliver to the Defender a copy of any account pursued for, and that ye cite Witnesses and Havers for both parties to compear at the said place and date, to give evidence in the said matter; and in the meantime that ye arrest in security the goods, effects, debts and sums of money belonging to the defender, as accords of Law. Given under the hand of the Clerk of Court at the day of

J. P., Sheriff Clerk.

No. 2.

Citation for Defender.

E. F., Defender above designed, you are hereby summoned to appear and answer before the Sheriff in the matter, and at the time and place, and under the certification set forth in the above copy of the Summons or Complaint against you.

This Notice* served upon the day of by me,

J. T., Sheriff's Officer.

* If there is an Account mentioned in the complaint, the officer must serve a copy of it along with the copy of the summons or complaint, and add here "with a copy of the Account."

No. 3.

Execution of Citation of Defender.

Upon the day of One thousand eight hundred and I duly summoned the above designed E. F., Defender, to appear and answer before the Sheriff in the matter, and at the time and place, and under the certification above set forth. This I did by leaving a full copy of the above Summons or Complaint, with a Citation thereto annexed,* for the said Defender [in his hands personally, or otherwise, as the case may be.]

J. T., Sheriff Officer.

* If there is an Account mentioned in the complaint, the officer must serve a copy of it along with the copy of the summons or complaint; and that being done, add here the words, "and a Copy of the Account."

No. 4.

Execution of Notice of counter Claim by Defender against Pursuer.

Upon the day of I gave notice to C. D., Pursuer, of the above counter Account [or Claim] intended to be pleaded against him by E. F., Defender in the Small Debt Action to which the said Defender was summoned to appear before the Sheriff at upon the day of at of the clock. This I did by leaving a copy of the above Account [or Notice of Claim, shortly explaining it] for the said Pursuer [in his hands personally, or otherwise, as the case may be.]

J. T., Sheriff Officer.

No. 5.

Citation for Witnesses.

M. N. [design him], you are hereby summoned to appear before the Sheriff of the Shire of or his Substitute, in the Court-house at upon the day of One thousand eight hundred and at of the clock, to bear witness for the [Pursuer, or Defender, as the case may be], in the Summons or Complaint at the instance of C. D. [design him] against E. F. [design him], and that under the penalty of *Forty* Shillings if you fail to attend.

This Notice served on the day of by me,

J. T., Sheriff Officer.

No. 6.

Execution of Citation of Witnesses.

Upon the day of One thousand eight hundred and I duly summoned M. N., &c. [design them] to appear before the Sheriff of the Shire of or his Substitute, in the Court-house at upon the day of One thousand eight hundred and at of the clock, to bear witness for the in the Summons or Complaint at the instance of C. D. [design him] against E. F. [design him]. This I did by delivering a just copy of citation, signed by me, to the said M. N. [personally, or otherwise, as the case may be.]

J. T., Sheriff Officer.

No. 7.

Decree for Pursuer in a Civil Cause.

At the day of One thousand eight hundred and he Sheriff of the Shire of finds the within-designed Defender, liable to the Pursuer in the sum of with of expenses, and decerns and ordains instant execution by Arrestment, and also execution to pass hereon by poinding and sale and imprisonment, if the same be competent, after free days.

J. P., Sheriff Clerk.

No. 8.

SUMMONS or COMPLAINT for STATUTORY PENALTY.

A. B., Sheriff of the Shire of to Officers of Court, jointly and severally.

WHEREAS it is humbly complained to me by C. D., Procurator Fiscal of Court, [or, where a private party only,] G. H. [designation], [or, where a private party prosecutes with the concurrence of the Procurator Fiscal,] G. H., with concurrence of C. D., Procurator Fiscal of Court, that E. F. [designation], Defender, has incurred the Penalty of imposed by the Act of Parliament [mention the Act,] the said Defender having [state the offence, specifying time and place]; therefore the said Defender ought to be decerned and ordained to make payment of the said Penalty, with expenses, [state to whom and in what proportions payable, and the term of imprisonment where the same is the mode of recovery]: Herefore it is my will, that on sight hereof ye lawfully summon the said Defender to compear before me or my Substitute, in the Court-house, at upon the day of, at of the clock, to answer at the Complainer's instance in the said matter, with certification, in case of failure, of being held as confessed; and that ye cite witnesses and havers for both parties to compear at the same place and date to give evidence in the said matter: Given under the hand of the Clerk of Court, at the day of

J. P. Sheriff Clerk.

Concurs C. D., Procurator Fiscal.

[For Citation for Defender, and execution thereof, and Citation for Witnesses, and execution thereof, see Nos. 2, 3, 4, and 5 respectively.]

No. 9.

DECREE for PROSECUTOR in PROSECUTION for PENALTY.

AT the day of One thousand eight hundred and the Sheriff of the Shire of finds that the within-designed E. F. Defender, has incurred the penalty of as libelled, payable to [if there is a power to mitigate, and mitigation, add, " which is hereby mitigated to the sum of "], and also finds the said Defender liable in of expenses to the Complainer, and decerns and ordains instant execution by arrestment, and also execution by poinding and sale and imprisonment, if the same be competent, [stating the term of imprisonment where it is fixed] after free days.

J. P., Sheriff Clerk.

No. 10.

DECREE of ABSOLVITOR, with EXPENSES.

[The following will answer either for Civil Causes or Prosecutions for Penalties]

AT the day of One thousand eight hundred and the Sheriff of the Shire of assolizes the within-designed E. F., Defender, from the within complaint, and finds the within-designed C. D., Pursuer, liable to him in the sum of of expenses, and decerns and ordains instant execution by arrestment, and also execution to pass hereon by poinding and sale after free days.

J. P., Sheriff Clerk.

No. 11.

Charge on Decree.

E. F., above designed, you are hereby charged to implement the Decree, of which, and of the complaint whereon the same proceeded, the above is a copy, within days from this date, under pain of poinding and sale without further notice. This charge given by me, on the day of before these witnesses, O. P. and Q. R. [design them.]

J. T., Sheriff Officer.

No. 12.

Execution of Charge.

[To be on the same Paper with the Complaint and Decree.]

On the day of One thousand eight hundred and I duly charged E. F., above designed, to implement the above decree within the time and under the pains therein expressed. This I did by delivering a just copy of the foregoing Complaint and Decree, and a charge thereto annexed, subscribed by me, to the said E. F. [personally, or as the case may be,] before these witnesses, O. P. and Q. R. [design them,] hereto with me subscribing.

J. T., Sheriff Officer.

O. P., Witness.
Q. R., Witness.

SCHEDULE (B.)

Summons of Sequestration and Sale at the Instance of a Landlord.

A. B. Sheriff of the Shire of to Officers of Court, jointly and severally.

Whereas it is humbly complained to me by C. D., Pursuer [design him], that E. F. Defender, [design him], is owing to the Pursuer the sum of being the rent for [describe the premises] possessed by him from to [if any partial payments have been made, let them be here stated], and which rent [or balance of rent, as the case may be,] the said Defender refuses or delays to pay; therefore warrant ought forthwith to be granted to inventory, appraise, sequestrate, and, if need be, secure the goods and effects upon or within the said premises, and decree ought to be pronounced decerning the Defender to make payment of the said rent [or balance of rent, as the case may be,] to the Pursuer, with expenses, and warrant ought also to be granted to sell the goods and effects sequestrated in payment of the said rent [or balance of rent, as the case may be,] and expenses: Herefore it is my will, that on sight hereof ye lawfully summon the said Defender to compear before me or my Substitute, within the Court House of upon the day of at of the clock, to answer at the Pursuer's instance in the said matter, with certification, in case of failure, of being held as confessed, and decree and warrant pronounced as craved: And my will further is, that you forthwith inventory, sequestrate, and, if need be, secure the goods and effects upon or within the said premises until the further orders of Court, or until the said Defender shall make payment to the Pursuer of the amount of the rents pursued for, with the expenses, or shall consign in the hands of the Clerk of Court the amount of the rents pursued for, with *Two* Pounds sterling to cover expenses; and that ye cite witnesses and havers for both parties to compear at the said place and date to give evidence in the said matter. Given under the hand of the Clerk of Court, at the day of

J. P., Sheriff Clerk.

[After hearing the cause, the decree and Procedure in the Sequestration and Sale will be similar to the Forms in ordinary Causes; the words "Sequestration" and "sequestrated" being introduced when necessary, instead of "Poinding" and "poinded."

SCHEDULE (C.)

ARRESTMENT on the DEPENDENCE of an ACTION

BY virtue of a Warrant of the Sheriff of the shire of given under the hand of the Clerk of Court, at on the day of for arrestment on the dependence of an action raised before the said Sheriff at the instance of C. D. [design him], Complainer, against E. F. [design him], Defender, I hereby fence and arrest in the hands of you, K. L. [design him], all sums of money owing by you to the said Defender, or to any other person for his use and behoof, and all goods and effects in your custody belonging to the said Defender, [or, in the case of Ships or Maritime Subjects, say, I hereby fence and arrest the Ship M. of N. presently lying in the Harbour of O., with her Boats, Furniture, and Apparelling, or other Maritime subjects,] and that to an amount or extent not exceeding the value of *Ten* Pounds sterling, all to remain under sure fence and arrestment, at the Complainer's instance, until due consignation be made, or until sufficient caution be found as accords of law. This I do on the day of before these witnesses, O. P. and Q. R. [design them], by delivery of a copy of this execution to you [personally, or as the case may be].

J. T., Sheriff Officer.

EXECUTION of ARRESTMENT on the DEPENDENCE of an ACTION.

[To be on the same Paper with the Summons or other Warrant of Arrestment.]

UPON the day of One thousand eight hundred and betwixt the hours of and by virtue of the foregoing Warrant of Arrestment, I lawfully fenced and arrested in the hands of K. L. [design him] all sums of money owing by him to the foresaid E. F., Defender, or to any other person for his use and behoof, and all goods and effects in the custody of the said Arrestee belonging to the said Defender [or in case of Ships or Maritime Subjects, as before], and that to an amount or extent not exceeding the value of *Ten* Pounds sterling, all to remain under sure fence and arrestment, at the foresaid Complainer's instance, until due consignation be made, or until sufficient caution be found as accords of law. This I did by delivering a just copy of Arrestment, subscribed by me, to the said Arrestee personally [or as the case may be], before these witnesses, O. P. and Q. R. [design them], hereto with me subscribing.

O. P., Witness. J. T., Sheriff Officer.
Q. R., Witness.

BOND or ENACTMENT of CAUTION for LOOSING ARRESTMENT.

AT on day of One thousand eight hundred and compeared G. H. [design him], who hereby judicially binds himself, his heirs, executors and successors, as cautioners acted in the Sheriff Court Books of the Shire of for E. F. [design him], common Debtor, against whom Arrestment was used at the instance of C. D. [design him], in the hands of K. L. [design him], on the day of in virtue of [describe the Warrant], dated the day of that the sums of money, goods and effects owing or belonging to the said common Debtor, arrested as aforesaid, shall be made forthcoming as accords of law.

G. H.

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WARRANT for LOOSING ARRESTMENT used on the DEPENDENCE of an ACTION.

WHEREAS Arrestment was used on the dependence of an Action at the instance of C. D. [design him], against E. F. [design him], in the hands of K. L. [design him, or as the case may be], on the day of by virtue of a Warrant of the Sheriff of the Shire of given under the hand of the Clerk of Court at the day of : And whereas the said E. F. has now made sufficient consignation in the hands of the Sheriff Clerk of [or, if caution has been found, say] has found sufficient caution acted in the Sheriff Court Books of by G. H. [design him], his cautioner [here state the nature of the caution], in order to the loosing of the said Arrestment; Warrant for loosing the said Arrestment is hereby granted accordingly. Given under the hand of the Clerk of Court at the day of

J. P., Sheriff Clerk.

INTIMATION of LOOSING ARRESTMENT.

[To be on the same Paper with a Copy of the foregoing Warrant.]

K. L. [design him], take notice, That by virtue of the Warrant, whereof the above is a copy, the Arrestment on the dependence of the Action above mentioned, used in your hands at the instance of the foresaid C. D. against the foresaid E. F., is loosed and taken off. This notice served on the day of by me,

J. T., Sheriff Officer.

EXECUTION of INTIMATION of LOOSING ARRESTMENT.

[To be on the same Paper with the original Warrant for loosing the Arrestment.]

UPON the day of One thousand eight hundred and I duly intimated the above Warrant to K. L. [design him], Arrestee. This I did by leaving a full copy thereof, and intimation thereon, subscribed by me, for him [in his hands personally, or as the case may be.]

J. T., Sheriff Officer.

SCHEDULE (D.)

SUMMONS of COMPLAINT in CASES of FORTHCOMING.

A. B., Sheriff of the Shire of to
Officers of Court, jointly and severally.

WHEREAS it is humbly complained to me by C. D. [designation], upon and against K. L. [designation], Arrestee, and E. F. [designation], common Debtor, that the said common Debtor is owing the Complainer the sum of contained in [describe shortly the Decreet, or Bill, or Bond, et cætera, by which the debt is constituted]; and that the Complainer, on the day of years, in virtue of a Warrant by dated the day of arrested in the hands of the Arrestee [here insert the terms of the Arrestment used], which ought to be made forthcoming to the Complainer; therefore the said Arrestee and the said common Debtor for his interest ought to be decerned and ordained to make forthcoming, pay, and deliver to the Complainer the money, goods and effects arrested as aforesaid, or so much thereof as will satisfy and pay the said sum of owing to the Complainer as aforesaid: Herefore it is my will, that on sight hereof ye lawfully summon the said Arrestee, and the said common Debtor for his interest, to compear

compear before me or my Substitute in the Court-house at upon the day of years, at of the clock, to answer at the Complainer's instance in the said matter, with certification, in case of failure, of being held as confessed; and that ye cite Witnesses and Havers for both parties to compear at the said place and date to give evidence in the said matter. Given under the hand of the Clerk of Court at the day of years.

J. P. Sheriff Clerk.

[The Citations and Executions, and Decree for the Defender, with expenses, may be the same as in Schedule (A.)]

Decree for the Pursuer in Cases of Forthcoming.

At the day of One thousand eight hundred and the Sheriff for the Shire of decerns and ordains the within-designed Arrestee, to make forthcoming, pay, and deliver to the also within-designed Pursuer [if the Arrestee has money arrested in his hands, the rest of the judgment will be the same as in ordinary cases; if there are goods and effects to be made forthcoming, the rest of the judgment will be as follows:] the arrested goods and effects following; videlicet, , and grants Warrant to sell the same, or as much thereof as will satisfy the sum of and of expenses of process, and the expense of sale; and failing the said Arrestee making forthcoming and delivering the said goods and effects within then to make payment to the said Pursuer of the said sum of for recovery of which sums, the said period being elapsed without forthcoming and delivery of the said goods and effects, ordains instant execution by arrestment, and also execution to pass hereon by poinding and sale and imprisonment if the same be competent, after free days.

J. P., Sheriff Clerk.

SCHEDULE (E.)

Summons of Multiplepoinding.

A. B. Sheriff of the Shire of to Officers of Court, jointly and severally.

Whereas it is humbly shown to me by A. B., Pursuer [design him], that he is holder of [here state the sum or fund in medio, and, if necessary, refer to the account thereof produced], belonging to E. F., common Debtor [design him], which fund the Pursuer is ready to pay [or deliver] to the said common Debtor, or to whomsoever shall be found to have best right thereto, but he is distressed by claims being made thereon by the persons following, videlicit [here state the names and designations of all the claimants so far as known to the holder or raiser of the action]; wherefore the said Pursuer ought to be found liable only in once and single payment [or delivery] of the said fund to whomsoever of the said parties or others interested shall be found by me to have best right thereto [or in the meantime consignation ought to be ordered of the fund in medio], deducting the Pursuer's expenses, and Decree ought to be pronounced accordingly, and all other parties ought to be prohibited from molesting the Pursuer thereanent in all time coming: Herefore it is my will, that on sight hereof ye lawfully summon the said common Debtor and the said Claimants [and, in case of the action being raised by a Claimant in name of the Holder, it will be necessary also to summon the nominal Pursuer,] to compear before me or my substitute in the Court-house of upon the day of at of the clock, to attend to their several interests in the said matter, with certification, in case of failure, of being held as confessed; requiring you also to deliver to the said common Debtor a copy of any account produced with the summons, and that he cite Witnesses and Havers for all parties to compear at the said place and date to give evidence in the said matter. Given under the hand of the Clerk of the Court at the day of .

J. P., Sheriff Clerk.

FORM of CLAIM in MULTIPLEPOINDING.

I, A. B. [design him] hereby claim to be preferred on the fund in the Multiplepoinding raised in name of [mention the raiser] against [mention the Defenders] for [state the claim] of principal due to me by [here state generally the ground of debt, whether by bond, bill, account, &c. as the case may be], with Interest from with Expenses.

A. B.

FORM of INTERLOCUTOR of PREFERENCE.

PREFERS [here design him] Claimant for [here specify the sum.]

[to be signed by the Sheriff.]

[The Citations and Procedure to be as nearly as may be in the Forms in other Causes, and Warrant to sell the subjects forming the Fund in medio to be granted and carried into effect in the ordinary Form.]

SCHEDULE (F.)

No.	Dates of Complaints.	Pursuers.	Defenders.	Sums.	How cited.	By what Officer.	Interlocutors and Decrees.

N.B.—After the name of each Pursuer and Defender let the letter P. or A. be added, in order to mark whether the party was present or absent when the Cause was called: and should the party appear by or with any other person or a Procurator, his or her name shall be marked as so appearing. Let expenses be also entered under the head of "Interlocutors."

SCHEDULE (G.)

Report of Sequestration or Poinding and Sale.

[To be varied according to circumstances.]

Report of the Sequestration or Poinding and Sale at the instance of C. D. [design him] against E. F. [design him.]

Lots.	Effects.	Appraised at			Sold at		
			s.	*d.*	*£.*	*s.*	*d.*
1.	An Eight-day Clock - - -	4	–	–	4	10	–
2.	Six Chairs, at 6*s.* - - -	1	16	–	1	18	–
3.	One Table - - -	–	8	–	–	8	–
4.	One Chest of Drawers - -	1	12	–	1	12	–
	£.	7	16	–	8	8	–

Upon the day of One thousand eight hundred and between the hours of and by virtue of a Decree of the Sheriff of given under the hand of the Clerk of Court at on the day of at the instance of C. D. above designed, against E.F. above designed, for payment of the sums of I passed with the Witnesses and Appraisers after named and designed to and then and there, after demanding payment of the sums contained in said Decree past due, and payment not being made, I poinded the effects above enumerated belonging to the said Debtor; and after making an Inventory or List thereof, and getting the same duly appraised, on oath, at the several values respectively above specified in the first column, and amounting in all to [here insert the amount in words], and leaving a copy of such Inventory or List and Appraisement with the said Debtor personally, [or as the case may be], I carried the said effects to the of [or as the case may be], and there, betwixt the hours of and and after public notice of at least hours, I sold the said effects by public roup to the highest bidder, at the prices above specified in the second column for each Lot respectively,* and amounting in all to [here insert the amount in words]; these things were so done before and with O. P. and Q. R. [design them], Witnesses and Appraisers, in the premises hereto with me subscribing.

J. T. Sheriff Officer.

O. P., Witness and Appraiser.
Q. R., Witness and Appraiser.

Reported to the Sheriff Clerk of the Shire of at the day of by me,

J. T., Sheriff Officer.

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* If the effects are not sold, the tenor of the report must be altered according to the state of the fact; for instance, ["I exposed the said goods and effects to public sale, but no person having offered the appraised value, therefore I declared the same to belong to the said C. D. at the said respective appraised values, in payment to that amount of the sums in said Decree."] In case the goods poinded, or part of them, shall sell for more than the sums in the Decree, and expenses of Poinding and Sale, say, ["I sold part of the said effects, viz. Lots 1, 2, and 3, by public roup, to the highest bidder, at the prices above specified in the second column for each of said Lots respectively, and amounting in all to [here insert the amount in words], and I returned to the said Debtor the sum of being the overplus of the price, after payment of the sum decerned for past due, and the sum of being the expenses of Poinding and Sale, conform to the Act of Parliament; and I also returned to the said Debtor the effects specified in the other Lots above enumerated."]

SCHEDULE (H.)

Counties.	Places at which Circuits are to be held.	
Aberdeen	Pitcaple	Three times.
	Inverury	Three times.
	Tarland	Four times.
	Turriff	Four times.
	Peterhead	Six times.
	Huntly	Four times.
	Old Deer	Four times.
Argyle	Oban	Three times.
	Island of Islay	Three times.
	Dunoon	Three times.
	Lochgilphead	Three times.
	Kilchrennan	Three times.
Ayr	Saltcoats	Four times.
	Largs	Three times.
	Kilmarnock	Twelve times.
	Beith	Three times.
	Old Cumnock	Three times.
	Girvan	Three times.
	Maybole	Four times.
Berwick	Lauder	Three times.
	Dunse	Six times.
	Coldstream	Six times.
	Ayton	Three times.
Banff	Cullen	Three times.
	Keith	Six times.
	Dufftown	Three times.
Bute	Brodick in Arran	Four times.
Caithness	Milpott	Four times.
	Thurso	Six times.
	Libster	Four times.
Dumbarton	Kirkintulloch	Four times.
	Helensburgh	Four times.
Dumfries	Sanquhar	Four times.
	Annan	Four times.
	Langholm	Four times.
	Moffat	Four times.
	Lockerbie	Three times.
Edinburgh	Mid Calder	Four times.
	Dalkeith	Eight times.
	Musselburgh	Four times.
	Stow	Two times.
Elgin	Fochabers	Three times.
	Grantown	Three times.
	Forres	Six times.
Fife	Auchtermuchty	Four times.
	St. Andrew's	Four times.
	Colinsburgh	Four times.
	Kirkaldy	Six times.
Forfar	Brechin	Four times.
	Montrose	Six times.
	Arbroath	Six times.
	Kirriemuir	Four times.
Haddington	North Berwick	Two times.
	Dunbar	Four times.
	Tranent	Two times.
Inverness	Kingussie	Three times.
	Fort Augustus	Three times.
	Grantown	Three times.
Kincardine	Fettercairn	Three times.
	Bervie	Three times.
	Durris	Three times.
Kirkcudbright	New Galloway	Three times.
	Maxwelltown	Four times.
	Castle Douglas	Four times.
	Creetown	Three times.
Lanark	Biggar	Four times.
	Airdrie	Twelve times.
	Douglas	Three times.
Linlithgow	Bathgate	Four times.
	Queensferry	Three times.
Orkney	St. Margaret's Hope	Three times.
	Stromness	Three times.
	Sanday	Three times.
Shetland	Burravoe	Two times.
Perth	Crieff	Four times.
	Callender	Four times.
	Kincardine (Tulliallan)	Four times.
	Dunkeld	Four times.
	Blair Gowrie	Four times.
	Cupar Angus	Four times.
Renfrew	Lochwinnock	Six times.
	Pollokshaws	Six times.
Rose and Cromarty	Kincardine	Two times.
	Jeantown	Two times.
	Fortrose	Four times.
	Invergordon	Four times.
Roxburgh	Melrose	Four times.
	Hawick	Six times.
	Kelso	Six times.
	Newcastleton	Three times.
Selkirk	Galashiels	Four times.
Stirling	Drymen	Two times.
	Lennox, Town of Campsie	Four times.
	Balfron	Two times.
Sutherland	Tongue	Two times.
	Port Gower	Two times.
Wigton	Stranraer	Six times.
	Whithorn	Four times.
	Newton Stewart	Four times.

SCHEDULE (I.)

Notice.

A. B. [add designation], residing is the Depute Sheriff Clerk to whom application for Summonses and every thing else necessary for the Sheriff's Circuit at this place for Small Debt Causes must be made: [or, in case the Depute shall not be resident, say, A. B. [add Designation and Place of Residence] is the Depute Sheriff Clerk who will officiate at in the Sheriff's Small Debt Circuit Court, and C. D. [add designation] residing at is the person who will issue Summonses or Complaints to be brought in such Court.]

Date
Place

SCHEDULE (K.)

Notice.

The Sheriff will hold Circuit Courts for Small Debt Causes at on the day of at of the clock, and on every [fix the time periodically, or if not, new Notice to be given.]

A. B. [add designation and residence] is the Clerk for this place.

Date
Place

Small Debts (Scotland.)

A

BILL

For the more effectual Recovery of Small Debts in the Sheriff Courts, and for establishing Circuit Courts for the Trial of Small Debt Causes by the Sheriffs, in Scotland.

(Prepared and brought in by The Lord Advocate and Mr. Wallace.)

Ordered, by The House of Commons, *to be Printed,*
3 *February* 1837.

11.

5 *July* 1837.—1 Vict.

Small Debts (*Scotland*) Bill.

AMENDMENTS MADE BY THE LORDS

TO THE

AMENDMENTS made by The COMMONS to the AMENDMENTS
to the SMALL DEBTS (*Scotland*) BILL.

Pr. 1. l. 3. Leave out "late."

l. 23. Leave out "King's," and insert "Queen's."

Pr. 3. l. 30. Leave out from "the" to "not" in line 32, and insert "time and place mentioned in such summons and complaint."

Pr. 9. l. 31. In Clause (A.), added by way of rider to the Bill:

Line 2. Leave out from "of" to "shall" in line 3, and insert labourers and manufacturers."

Line penult. After "as" insert "servants' fees and."

Pr. 15. l. 18. After "given" insert "Provided also, That the Pursuer of such action of forthcoming shall not by such action be held to have restricted the amount of the debt due by the common debtor."

Pr. 16. l. 6. Leave out from "havers" to "and" in line 10.

l. 21. After "case" insert "of oath in supplement being required, or."

l. 26. Leave out "oaths or."

l. 27. Leave out "parties or."

l. 29. Leave out from "attend" to "and" in line 30, and insert "upon special cause shown, and such cause shall in all cases be entered in the Book of Causes kept by the Sheriff Clerk, due notice of the examination being given to both parties."

Pr. 18. l. 12. After "any" insert "such."

l. 27. After "allow" insert "such person not being an officer of Court."

l. 35. After "allow" insert "such person not being an officer of Court."

Pr. 25. l. 34. Leave out "late."

Pr. 26. l. 2. Leave out "late."

l. 13. Leave out "the jurisdiction," and insert "an."

l. 16. After "second" insert "for taking away and abolishing the heritable jurisdictions in *Scotland*."

l. 27. Leave out "late," and in the same line, after "Majesty," insert "King GEORGE the Fourth."

Pr. 27. l. 7. After "at" insert "such of."

l. 8. Leave out from "Sheriffdom" to "set," in line 10.

Pr. 27. l. 11. After "Act" insert "and for such number of times within each place in each year not exceeding the number of times mentioned in the said Schedule (H.) as shall be directed by warrant under Her Majesty's Sign Manual, and to be published in the *London* Gazette."

l. 30. After "holding" insert "all."

l. 31. Leave out "all."

Pr. 28. l. 11. Leave out "his," and insert "one of Her;" and in line 11 and line 12 leave out "Secretary," and insert "Secretaries;" and also in line 12 leave out from "state" to "may" in line 13.

l. 16. Leave out "the said," and insert "such."

l. 17. Leave out "are appointed," and insert "shall be directed," and in the same line, after "held," insert "as aforesaid."

Pr. 29. l. 5. Leave out from "Courts" to "may" in line 6; and in line 6 leave out "appointed," and insert "directed."

Pr. 30. l. 32. Leave out from "shall" to "by" in line 34, and insert "Three months before holding any Circuit Court in terms of this Act."

Pr. 31. l. 8. Leave out "each," and insert "any."

l. 12. Leave out "appointment," and insert "apportionment."

Pr. 33. l. 7. Leave out "such."

l. 8. Leave out "as are hereinbefore provided."

l. 17. After "that," insert "in case it shall be directed by one of Her Majesty's Principal Secretaries of State, that a Circuit Court should be established in terms of this Act for the upper district of Morayshire."

Pr. 34. l. 7. Leave out "are," and insert "shall be."

l. 8. After "held" insert "as aforesaid."

Pr. 37. l. 36. Leave out "or Messenger's."

l. 38. Leave out "first."

Pr. 38. l. 19. Leave out "or Messenger's."

Pr. 40. l. 34. After "person" insert "whatsoever."

l. ult. After "Justice" insert "or otherwise."

Pr. 41. l. 36. Leave out from "clerk" to "the" in line penult.

In Schedule (A.) annexed to the Bill:

Pr. 44. l. 1. Leave out from "payment" to "to" in line 3.

Pr. 45. l. 12. Leave out "or Messenger."

l. 33. Leave out "or Messenger."

Pr. 46. l. 26. Leave out "or Messenger."

Pr. 47. l. 19. Leave out "or Messenger."

Pr. 48. l. 6. & l. 7. Leave out "or Messenger."

Pr. 52. l. 16. Leave out "or Messenger."

Pr. 53. l. 6. & l. 7. Leave out "or Messenger."

In Schedule (C.) annexed to the Bill:

Pr. 56. l. 35. & l. 36. Leave out "or Messenger."

Pr. 57. l. pent. Leave out "or Messenger."

Pr. 60. l. 7. & l. 8. Leave out "or Messenger."

l. 26. Leave out "or Messenger."

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In Schedule (F.) annexed to the Bill:

Leave out the heading of the Fifth Column, and insert "Nature and Amount."

In Schedule (G.) annexed to the Bill:

Pr. 70. l. 2. & l. 3. Leave out "or Messenger."

l. 10. & l. 11. Leave out "or Messenger."

In the Title to the Bill:

Line 2. Leave out "establishing," and insert "regulating the Establishment of."

Small Debts (*Scotland*) Bill.

AMENDMENTS

Made by The Lords

TO THE

AMENDMENTS made by The COMMONS to the AMENDMENTS to the SMALL DEBTS (*Scotland*) BILL.

Ordered, by The House of Commons, *to be Printed,*
5 *July* 1837.

417.

15 *July* 1837.—1 Vict.

A

B I L L

To permit Rectified Spirits and Compounds to be Warehoused for Removal from and to England, Scotland and Ireland respectively, and for Exportation to Foreign Parts, and to be removed and exported under certain Regulations.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble: 4 G. 4, c. 94.

WHEREAS by an Act passed in the fourth year of the reign of his Majesty King George the Fourth, intituled, "An Act to grant certain Duties of Excise upon Spirits distilled from Corn or Grain in Scotland and Ireland, and upon Licenses for Stills for making such Spirits, and to provide for the better collecting and securing such Duties, and for the Warehousing of such Spirits without Payment of Duty," distillers of Spirits in Scotland and Ireland respectively are permitted and authorized to warehouse any Spirits distilled in the distilleries of such distillers respectively without payment of the duty of Excise chargeable thereon, according to the provisions of the said Act, and under and subject to such rules and regulations as the Commissioners of Excise or any Two of them shall from time to time direct or order, in any warehouse provided or approved of by the Commissioners of Excise: And whereas by an Act passed in the sixth year of the reign of his said Majesty King George the Fourth, intituled, "An Act to repeal the Duties payable in respect of Spirits distilled in England, and of Licenses for distilling, rectifying or compounding such Spirits, and for the Sale of Spirits, and to impose other Duties in lieu thereof, and to provide other Regulations for the Collection of the said Duties, and for the Sale of Spirits, and for the Warehousing of such Spirits without Payment of Duty for Exportation," distillers of Spirits in England are

6 G. 4, c. 80.

are permitted and authorized to warehouse for exportation, or for removal to Scotland or Ireland, any Spirits distilled in the distilleries of such distillers respectively, without payment of the duty of Excise thereon, according to the provisions of the said Act, and under and subject to such further rules and regulations as the Commissioners of Excise shall from time to time direct or order, every such warehouse to be provided and duly entered by such distillers respectively, and to be ceiled and constructed and secured in such manner as shall be approved of by the Commissioners of Excise or Supervisor of the district: And whereas, under the rules, regulations and provisions of the said last-recited Act, no Spirits, whether medicated or mixed with any other ingredient or ingredients or not, which shall be distilled in England, Scotland or Ireland respectively, can be removed or sent from either Scotland or Ireland into England, or from England into Scotland or Ireland, except such Spirits only as shall for the purpose of such removal be taken from and out of such a warehouse as aforesaid in which the same shall be then warehoused under the said recited Acts respectively without payment of duty, whereby and by force of which rules, regulations and provisions, no Spirits rectified or compounded in England, Scotland or Ireland respectively can be removed from Scotland or Ireland into England, or from England into Scotland or Ireland, but such removal is contrary to law: And whereas no such rectified or compounded Spirits can be exported to foreign parts, but subject to the full duties of Excise payable on Spirits distilled in England, Scotland or Ireland respectively, no drawback of such duties being by law allowed: And whereas it is expedient to make provision for allowing the removal from Scotland or Ireland to England, and from England to Scotland and Ireland, and from Scotland to Ireland, and from Ireland to Scotland, of such rectified and compounded Spirits as shall not be sweetened or mixed with any ingredient or other matter capable of defeating the action of the hydrometer, or preventing the strength of such Spirits from being truly ascertained, and for allowing the export of such Spirits to foreign parts from warehouse without payment of duty; **Be it therefore Enacted**, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT it shall be lawful for any person duly entered and licensed as a Rectifier and Compounder of Spirits in England, Scotland or Ireland respectively, to rectify and compound Spirits to be removed from England to Scotland or Ireland, or from Scotland or Ireland into England, or from Scotland to Ireland, or from Ireland to Scotland, or to be exported to foreign parts, and to remove and export the same under the provisions, rules and regulations of this Act.

1.
Rectifiers duly licensed may compound Spirits for removal from England to Scotland or Ireland, or from Scotland or Ireland to England.

2. Rectifier intending to rectify Spirits for removal, to give notice thereof; such notice to be deemed an entry.

And be it Enacted, That every such Rectifier and Compounder as aforesaid, who shall be desirous of rectifying or compounding any Spirits for such removal as aforesaid, or for exportation, shall, *Fourteen* Days at least before receiving any Spirits for the purpose of being so rectified and compounded, give notice in writing of such his intention to the Officer of Excise under whose survey he shall be, and the Officer of Excise to whom such notice shall be delivered shall attach such notice to the entry of such Rectifier or Compounder, and shall also copy the same into the General Entry Book for the division or ride into which the entry of the rectifying house and premises of such Rectifier or Compounder shall be or shall have been copied; and every such notice shall be deemed and taken to be an entry by such trader of his premises as a Rectifier and Compounder of Spirits for removal from England to Scotland or Ireland, or from Scotland to England or Ireland, or from Ireland to England or Scotland, and for exportation to foreign parts.

3. Such Rectifier to give bond.

And be it Enacted, That before any such Rectifier or Compounder shall be permitted to receive any Spirits from and out of any warehouse, to be rectified or compounded for such removal or exportation as aforesaid, such Rectifier or Compounder shall, with one or more sufficient surety or sureties, give bond to Her Majesty in the penal sum of *Two thousand* Pounds, which bond the Collector or proper Supervisor of Excise is hereby authorized and required to take, conditioned that such Rectifier or Compounder shall rectify or compound all such Spirits as he shall from time to time receive out of any warehouse in which the same shall be warehoused, without payment of Duty, for the purpose of being removed from England into Scotland or Ireland, or from Scotland into England or Ireland, or from Ireland to England or Scotland, or for exportation to foreign parts, and that he will, within *Seven* Days after the delivery of such Spirits from the warehouse, return into the same, or some other approved warehouse used for the purpose of warehousing Spirits free of Duty, an equal quantity, to be computed at proof of uncoloured British Brandy, British Compounds or Spirits of Wine, and that such Rectifier or Compounder shall not, in the rectifying or compounding of such Spirits, make use of, nor shall mix with or add to any such rectified or compounded Spirits, any sugar or other sweetening matter, or any ingredient or material whatever which shall affect the action of the hydrometer, or prevent the true strength of such rectified or compounded Spirits from being correctly ascertained.

4. Rectifier requiring Spirits from a warehouse to be rectified for removal, to

And be it Enacted, That when and as often as any Rectifier or Compounder of Spirits having given such notice, and entered into such bond as aforesaid, shall be desirous of taking any Spirits out of a warehouse in which the same shall then be warehoused, without produce the Order from the Distiller for their delivery, and a Request-note for a Permit.

payment of duty, for the purpose of rectifying and compounding such Spirits for such removal or exportation as aforesaid, such Rectifier or Compounder shall produce to the Warehouse-keeper or Officer of Excise having the charge of the warehouse in which the Spirits shall then be, an order from the distiller in whose name such Spirits shall have been warehoused, setting forth the marks and numbers and contents in gallons of the several casks of Spirits to be delivered out, and the total quantity thereof, and directing that such casks and the Spirits therein shall be delivered to such Rectifier or Compounder, in order to be rectified or compounded, for removal from England to Scotland or Ireland, or from Scotland or Ireland to England, or from Scotland to Ireland, or Ireland to Scotland, or for exportation to foreign parts, as the case may be; and such Rectifier or Compounder shall at the same time give a request-note for a permit for the removal of such Spirits from such warehouse to the rectifying-house and premises of such Rectifier or Compounder; and the Warehouse-keeper or Officer having the charge of the warehouse, having received such order and request-note, shall thereupon deliver the casks and Spirits specified therein, and shall deliver a permit for the removal of the same to the rectifying-house or premises of such Rectifier or Compounder, in which permit shall be specified, in addition to all other particulars by law required, that such Spirits are Spirits to be rectified or compounded for removal from England to Scotland or Ireland, or from Scotland or Ireland to England, or from Scotland to Ireland, or Ireland to Scotland, or for exportation to foreign parts, as the case may be: Provided always, That no such order or request-note shall be for the delivery of any lesser quantity of Spirits than *One thousand* Gallons, to be computed at hydrometer proof, nor for any greater quantity at one time than *Five thousand* Gallons, to be computed as aforesaid; and that no Rectifier or Compounder of Spirits, having received any quantity of Spirits exceeding *Two thousand* Gallons for the purpose of being rectified or compounded for removal to England, Scotland or Ireland, or for exportation, shall be allowed to receive any other quantity for the like purposes until an equivalent quantity of rectified or compounded Spirits shall have been returned into warehouse, and warehoused under the provisions of this Act.

5.
Rectifier, having received Spirits from warehouse, to return an equivalent quantity of rectified Spirits or Compounds within Seven Days, and re-warehouse them.

And be it Enacted, That every such Rectifier or Compounder of Spirits who shall take any Spirits out of warehouse for the purposes aforesaid, shall, within *Seven* Days after such Spirits shall have been delivered from the warehouse, return into the same, or some other warehouse approved of by the Commissioners of Excise for the warehousing of Spirits, without payment of duty, under the said recited Acts respectively, a quantity of rectified or compounded Spirits, being uncoloured British Brandy, British Compounds or Spirits of Wine, equal, when computed at hydrometer proof, to the quantity

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quantity of Spirits so taken out of warehouse for the purpose aforesaid, and shall there re-warehouse such rectified or compounded Spirits so returned, without payment of duty thereon.

6. Rectifier to give notice of his intention to return and re-warehouse rectified Spirits or Compounds.

And be it Enacted, That when and as often as any such Rectifier or Compounder as aforesaid shall intend to return or re-warehouse any such rectified or compounded Spirits, he shall give *One* Day's notice in writing to the Officer surveying the rectifying-house and premises of such Rectifier, and also to the Warehouse-keeper or Officer of Excise in charge of the warehouse into which such rectified or compounded Spirits are to be returned to be re-warehoused, in which notice shall be set forth the marks, numbers and content in gallons of each cask which such Rectifier or Compounder intends to return and re-warehouse, and the description of Spirits, whether British Brandy, British Compounds or Spirits of Wine, contained in each, and the day and hour of the day on which such Rectifier or Compounder intends to commence the removal of such Spirits out of the store of such Rectifier or Compounder to the warehouse; and also in respect of what quantity of Spirits delivered from the warehouse such rectified or compounded Spirits are to be returned, specifying the date when such Spirits were delivered out, and from what warehouse, and the distiller by whose order the same were delivered: Provided always, That no removal of any such Spirits shall be allowed without a permit or permits according to law, which permits shall, in addition to all other particulars required by law, specify that the said Spirits are rectified, or compounded Spirits to be warehoused, for removal from England to Scotland or Ireland, or from Scotland to England or Ireland, or from Ireland to England or Scotland, or for exportation (as the case may be), and that no such removal shall take place except upon the day mentioned in such notice, nor upon any Excise Office holiday, nor at any other time in the day than between the hours of *Nine* of the clock in the forenoon and *Two* of the clock in the afternoon.

7. Officer receiving the notice, to attend and take an account of the Spirits.

And be it Enacted, That the Officer of Excise to whom any such notice shall be given, shall attend at the Spirit stores of every such Rectifier or Compounder of Spirits at the time mentioned in such notice; and such Officer shall immediately ascertain the several descriptions of all such rectified or compounded Spirits intended to be returned and re-warehoused, and the quantities and strengths of such description thereof, and shall compare the marks and numbers on the several casks in which such Spirits shall be contained with the marks and numbers described and set forth in the notice for the re-warehousing of such Spirits; and every such Officer shall continue in such stores until the whole of the Spirits of which such notice shall be given shall be removed out of the stores of such Rectifier or Compounder under permit as aforesaid.

8.
Warehouse-keeper to take an account of the rectified Spirits or Compounds returned.

And be it Enacted, That immediately on the arrival of such Spirits under permit as aforesaid at the warehouse, the Warehouse-keeper or Officer of Excise in charge of the warehouse shall gauge and take an account of the contents of every cask, and of the description of Spirits and strength thereof contained therein, and shall enter in a separate book, to be kept by him for that purpose, an account of such rectified or compounded Spirits, and in respect of what quantity of Spirits taken out of warehouse the same are returned, and thereupon such rectified or compounded Spirits shall be received into the warehouse, and shall be deposited therein, separate and apart from any plain unrectified British Spirits; and the Warehouse-keeper or Officer in charge of such warehouse shall deliver to the Rectifier or Compounder, or any person requiring the same for his use, a receipt for such rectified or compounded Spirits, specifying the number of the different casks, with their gauge, and the description, quantity and strength of the Spirits contained in them, with the day of the month and year when such rectified or compounded Spirits were returned and re-warehoused, and any mark which may have been put on any such cask to distinguish such casks as the property of such Distiller or Rectifier, and in respect of which quantity of Spirits taken out of warehouse such rectified or compounded Spirits are returned: Provided always, That no such rectified or compounded Spirits shall be warehoused in any cask of less content than *Twenty* Gallons.

9.
Where the rectified or compounded Spirits shall be returned into a different warehouse, the Warehouse-keeper receiving the rectified or compounded Spirits to transmit a duplicate of the receipt to the Warehouse-keeper of the warehouse out of which the Spirits were taken.

And be it Enacted, That whenever any Spirits which shall have been taken out of any warehouse for the purpose aforesaid, shall not, after having been rectified or compounded, be returned into the same warehouse from which the quantity of Spirits in respect of which such rectified or compounded Spirits shall be returned was taken, but shall be re-warehoused in another and different warehouse, the Warehouse-keeper or Officer in charge of such last-mentioned warehouse into and in which such rectified or compounded Spirits shall be returned and re-warehoused, shall transmit to the Warehouse-keeper or Officer in charge of the warehouse from which the quantity of Spirits shall have been delivered for rectification or compounding, a duplicate of the receipt for such rectified or compounded Spirits delivered by him to the Rectifier or Compounder returning and warehousing the same; and the Warehouse-keeper or Officer in charge of the said first warehouse shall thereupon discharge his account of the quantity of Spirits delivered out by him, in respect of which such rectified or compounded Spirits shall be returned and re-warehoused.

Provided

10.
Strengths at which Spirits may be rectified or compounded and warehoused.

Provided always, and be it Enacted, That it shall be lawful for any Rectifier in England who shall have given such notice, and entered into such bond as aforesaid, to rectify and compound any Spirits for removal to Scotland or Ireland, and to warehouse the same at any strength not exceeding *Seven* per centum over proof, and for any such Rectifier in Scotland or Ireland to rectify and compound any Spirits for removal from thence to Ireland or Scotland respectively, and to warehouse such Spirits at not exceeding the like strength; and that it shall not be lawful for any Rectifier or Compounder in Scotland or Ireland to warehouse any rectified or compounded Spirits for removal to England at any higher strength than *Seventeen* per centum under proof: Provided always, That Spirits of Wine may be rectified and compounded and warehoused at any strength at which the same are allowed by law to be made, and that Spirits for exportation may be rectified or compounded and warehoused at any strength.

11.
Spirits to be rectified and compounded under the same regulations, and when warehoused to be subject to the same regulations as other Spirits warehoused free of duty.

And be it Enacted, That all such Spirits as shall be taken out of warehouse by any such Rectifier or Compounder as aforesaid for the purpose aforesaid, shall be rectified and compounded under and subject to all the same laws, rules, regulations and provisions, fines, penalties and forfeitures, as any other Spirits; and all such rectified and compounded Spirits, when returned into warehouse and re-warehoused, shall, during the time the same shall remain in warehouse, be subject and liable to all the same rules, regulations and provisions as Spirits warehoused without payment of duty by any Distiller are subject and liable to; and the Rectifier or Compounder warehousing any such rectified or compounded Spirits shall, in respect of the same, be and he is hereby made subject and liable to all the fines, penalties and forfeitures to which any Distiller warehousing Spirits in England, Scotland or Ireland respectively is made subject and liable under the said recited Acts of the fourth and sixth years of the reign of his said late Majesty King GEORGE the Fourth; and all such enactments, rules, regulations and provisions, fines, penalties and forfeitures in the said Acts respectively, shall be in as full force and effect in respect of such rectified and compounded Spirits, and the Rectifiers or Compounders thereof, as if the same were repeated and re-enacted in this Act: Provided always, That no such rectified or compounded Spirits shall be taken out of warehouse for home consumption or otherwise than for removal from England to Scotland or Ireland, or from Scotland or Ireland to England, or from Scotland to Ireland, or Ireland to Scotland, or for exportation to foreign parts, as the case may be.

12.
Notice to be given for taking rectified or compounded

And be it Enacted, That whenever any such Rectifier or Compounder as aforesaid shall be desirous of removing any such rectified or compounded Spirits, being uncoloured British Brandy, British

Spirits out of warehouse for removal from and to England, Scotland and Ireland respectively.

Compounds or Spirits of Wine, to England, Scotland or Ireland respectively, as the case may be, such Rectifier or Compounder shall give *Two* Days' notice in writing to the Warehouse-keeper or Officer of Excise in charge of the Warehouse in which such rectified or compounded Spirits shall then be, of the time when he shall propose to take out such Spirits from such warehouse, and shall specify in every such notice the number of casks intended to be so removed, and also the mark and number of each cask, the full content thereof in gallons, and the strength and quantity and description of Spirits contained therein, and the total quantity and description of Spirits to be so removed, the name of the vessel and the master thereof by which such Spirits are to be removed, the name of the port or place at which such Spirits are to be shipped, and of the port or place to which such Spirits are to be removed, and of the person at such last-mentioned port or place to whom the same are to be sent; and every such Warehouse-keeper or Officer shall, upon the receipt of such notice, examine every such cask, and ascertain the truth of the several particulars aforesaid, and the temperature and strength of such Spirits, and the quantity and description thereof, contained in each of such casks; and shall, after the receipt of the certificate of bond having been entered into as hereinafter mentioned, and upon and according to the request in writing of such Rectifier or Compounder, grant a permit for the removal of such Spirits as aforesaid, expressing in or by endorsement on such permit the several particulars as aforesaid of the total number of casks, the mark, number, content and ullage of each such cask, the temperature, strength, quantity and description of Spirits contained therein, the total quantity and description of Spirits, and the names of the ship and master or conveyance, and of the ports or places of shipment and destination, and name of the person to whom such Spirits are intended to be sent, and shall forthwith transmit by post a duplicate of such permit to the principal Officer of Excise at the port or place, or nearest thereto, to which such Spirits are so to be sent.

13.
Bond to be given for removal of rectified or compounded Spirits to England, Scotland or Ireland.

And be it Enacted, That before any such rectified or compounded Spirits shall be delivered out of any warehouse in England, Scotland or Ireland respectively, for such removal as aforesaid, the Rectifier or Compounder intending to remove the same shall enter into bond to Her Majesty, with the Collector or other Officer of Excise appointed to receive the same, in such penalty as the Commissioners of Excise shall direct, and with such good and sufficient surety or sureties as shall be satisfactory to the said Collector or other Officer for the due shipment and removal of such Spirits, and that the same shall, within *Twenty-eight* Days from the date of such bond, be duly landed at the port or place of destination, and the duty paid on the whole quantity taken out of warehouse; and the Collector or other Officer of Excise by whom such bond shall be taken shall, upon request, sign and give to such Rectifier or Compounder a certificate of such bond having been so entered into.

14.
Upon production of the certificate of bond having been given, the Warehouse-keeper to deliver the Spirits.

And be it Enacted, That upon such Rectifier or Compounder, or some person on his behalf, producing to the Warehouse-keeper or Officer of Excise in charge of the warehouse in which such Spirits shall be warehoused, the certificate that such bond as aforesaid has been given, and such permit as aforesaid having been given and granted, such Warehouse-keeper or Officer shall deliver such Spirits as shall be mentioned in such certificate and permit to be removed; but no such removal shall take place on any Excise-office or Custom-house holiday, or commence at any time of the day before the hour of *Nine* of the clock in the morning, or continue later than *Two* of the clock in the afternoon; and such Spirits shall be shipped, removed, carried and conveyed to the port or place of destination mentioned in such permit, and delivered there in the same casks in which they were warehoused, with the marks, numbers and notes of the contents cut or branded thereon, except in cases of damaged or leaky casks, which may be changed with the leave of the surveyor or supervisor of the district, and like marks, numbers and notes shall be cut or branded on each new cask as were on the damaged or leaky casks, except as varied by any difference of content, ullage, temperature or strength.

15.
On arrival of the Spirits, entry to be made with the Collector of Excise, and duty paid.

And be it Enacted, That the consignee of any such rectified or compounded Spirits removed from England into Scotland or Ireland, or from Scotland or Ireland into England, or from Scotland into Ireland, or from Ireland into Scotland, shall, on the arrival of the ship or vessel wherein such Spirits shall be so removed, at the port or place into which such Spirits shall be brought, make due entry with the Collector or other Officer of Excise authorized to receive the same, and shall deliver to such Collector or other Officer the permit for the removal of such Spirits, and shall also pay to such Collector or other Officer the duties due and payable on such Spirits, such duties to be charged and paid, if such Spirits shall be brought into England, according to the amount of duty on Spirits made or distilled in England, or brought from Scotland or Ireland into England, payable under the provisions of the said recited Act of the sixth year of the reign of his said late Majesty King George the Fourth, and by an Act passed in the first year of the reign of his late Majesty King William the Fourth, intituled, "An Act to impose additional Duties of Excise on Spirits," and another Act passed in the fourth and fifth years of the reign of his said late Majesty King William the Fourth, intituled, "An Act to repeal the Duties on Spirits made in Ireland, and to impose additional Duties on Licenses to

Retailers of Spirits in the United Kingdom;" if brought into Scotland, according to the amount of duty on Spirits made or distilled in Scotland, or brought from England or Ireland into Scotland, payable under the provisions of an Act passed in the sixth year of the reign of his said late Majesty King George the Fourth, intituled, "An Act for providing equivalent Rates of Excise Duties, Allowances and Drawbacks on Beer and Malt, and on Spirits made in Scotland or Ireland, according to the Measure of the new Imperial Standard Gallon," and of the said first-recited Act of the sixth year of his said last-mentioned Majesty's reign, and the said Acts of the first and fourth and fifth years of the reign of his said late Majesty King William the Fourth; and if brought into Ireland, according to the amount of duty on Spirits made or distilled in Ireland, or brought from England or Scotland into Ireland, payable under the provisions of the said Act of the fourth and fifth years of the reign of his said late Majesty King William the Fourth, and the said first-recited Act of the reign of his said late Majesty King George the Fourth; and such Collector or other Officer of Excise shall thereupon examine or cause to be examined the said Spirits, and ascertain the quantity, description and strength thereof, and being satisfied that they are the same casks and Spirits specified in the permit, and having received the duties payable thereon, shall deliver to the consignee of such Spirits, or to some person demanding the same, a certificate of the due landing and payment of the duty on such Spirits; and on the production of such certificate to the Collector or other Officer of Excise by whom the bond for the removal of such Spirits shall have been taken, or in whose custody the same shall be, such bond shall be cancelled: Provided always, That if any such rectified or compounded Spirits, for the removal of which bond shall have been given, shall not be landed at the port or place of destination within the time specified in such bond, it shall be lawful for the Commissioners of Excise to forbear to put such bond in suit, on proof on oath, to the satisfaction of such Commissioners, that such Spirits were duly shipped, and that the arrival thereof has been delayed, or that such Spirits have been wholly lost by the perils and dangers of the seas.

16.
No rectified or compounded Spirits to be removed from England to Scotland, or from Scotland to England, otherwise than by sea, and all Spirits removed contrary to the

And be it Enacted, That no rectified or compounded Spirits shall be removed from England into Scotland, or from Scotland into England, otherwise than by sea; and all rectified or compounded Spirits which shall be put on board any ship or vessel for removal, or which shall be removed from England into Scotland or Ireland, or from Scotland or Ireland into England, or from Scotland into Ireland, or from Ireland into Scotland, otherwise than from a warehouse in which the same shall be warehoused under the provisions of this Act, or without such notice of removal as aforesaid having been given, or without a due and proper permit according to the provisions of this Act accompanying the same, or which shall be removed or brought into England, Scotland or Ireland otherwise than under and according to the provisions, rules and regulations of this Act, or contrary to any of the said provisions, rules or regulations, or which having been brought into England, Scotland or Ireland respectively, shall not, within *Twenty-four* Hours after the arrival of the ship or vessel having the same on board, be duly entered with and the permit produced to the Collector or other Officer of Excise authorized to receive such entry and permit, or which shall be removed from the wharf, quay or place where landed, before the duties thereon shall be duly paid, shall be forfeited, and every person engaged or interested in or knowingly ordering or assisting in such removal shall forfeit *Two hundred* Pounds.

regulations of the Act forfeited, and the persons removing to forfeit 200 *l.*

17.
Notice of taking out Spirits for Exportation.

And be it Enacted, That whenever any such Rectifier or Compounder of any Spirits rectified or compounded and warehoused for exportation shall be desirous of shipping for exportation any quantity of such Spirits, such Rectifier or Compounder shall deliver to the Warehouse-keeper or other Officer in charge of the warehouse in which such Spirits shall then be, *Two* Days at least before the time when he intends to ship such Spirits, a notice in writing of such his intention, specifying in such notice the number of casks, and the quantity and description of Spirits intended to be exported, and the mark and number of each cask, and the quantity, description and strength of the Spirits contained therein, and mentioning the time when such Rectifier or Compounder purposes to ship such Spirits, and the name and destination of the ship or vessel, and the name of the master of such ship or vessel in which such Spirits are intended to be exported, and the place where such ship or vessel is then lying; and it shall be lawful for the said Warehouse-Keeper or other Officer in charge of the warehouse from which such Spirits are to be taken, to mark every cask of such Spirits with such mark, and to seal or otherwise secure the same in such manner as the Commissioners of Excise shall direct; and if, after any such cask shall have been so marked, sealed or secured, the same shall, before being duly exported, be opened, or the Spirits therein altered, or if any such mark, seal or other security shall be obliterated, defaced, injured or destroyed, such cask shall be forfeited, and the Rectifier or Compounder shall for every such cask forfeit *Fifty* Pounds.

18.
Bond to be given on Exportation.

And be it Enacted, That before any rectified or compounded Spirits shall be delivered out of any warehouse for exportation, the Rectifier or Compounder intending to export the same shall enter into bond to Her Majesty, with the Collector or other Officer of Excise appointed to receive the same, in *Double* the value of such Spirits, and of the duty which would be due and payable on such Spirits, according to the rate of duty payable on Spirits made in the part of the United Kingdom in which such Spirits to be exported are warehoused, and with such good and sufficient surety or sureties as shall be satisfactory to the said Collector or other Officer, conditioned that such Spirits shall be duly shipped, and shall, the dangers of the seas and enemies excepted, be duly exported to and landed at such port as shall be specified in such bond, and shall not be landed in any other place, nor relanded in any part of the United Kingdom, nor put on board any other ship or vessel, except in case of inevitable accident; and the Collector of Excise or other Officer taking such bond shall give to such Rectifier or Compounder a certificate of such bond having been entered into.

19.
On production of the certificate of the bond having been entered into, the Spirits to be delivered out of warehouse, and to be sent to the quay and placed in the custody of the shipping officer.

And be it Enacted, That upon the Rectifier or Compounder, or some person on his behalf, producing to the Warehouse-keeper or Officer of Excise in charge of the warehouse the certificate from the Collector or other Officer as aforesaid that such bond hath been given, the said Warehouse-keeper or Officer in charge of the warehouse shall deliver the said Spirits mentioned in such certificate to be exported, and such Warehouse-keeper or Officer shall cause the said Spirits to be sent to the wharf or quay where the ship or vessel shall be stationed, there to be delivered into the custody of the shipping Officer of Customs or Excise on such wharf or quay, and shall at the same time grant a permit for the quantity so sent, in which permit shall be also mentioned the date when the Spirits were warehoused, and such other particulars as the Commissioners of Excise shall direct, and all such Spirits shall remain in the custody of the shipping Officer until shipped and exported; and no such removal shall take place on any Excise-office or Custom-house holiday, or commence at any time before the hour of *Nine* in the forenoon, or after the hour of *Two* in the afternoon; and all such rectified or compounded Spirits shall be shipped in the same casks in which the same were warehoused, with the marks and numbers thereon, except in case of damaged or leaky casks, which may be changed with the leave of the Surveyor or Supervisor of the district, and like marks or numbers cut or branded or marked on each new cask; and all rectified or compounded Spirits which having been shipped for exportation shall not be duly exported, or which shall be unshipped or relanded in any part of the United Kingdom, or shall be put on board any other ship or vessel, inevitable accident only excepted, shall be forfeited, and every person engaged in unshipping or relanding the same shall forfeit *Two hundred* Pounds.

20.
All rectified Spirits or Compounds for removal,

And be it Enacted, That all rectified or compounded Spirits rectified or compounded for removal from England to Scotland or

Ireland,

which shall be sweetened, to be forfeited.

Ireland, or from Scotland or Ireland to England, or from Scotland to Ireland, or Ireland to Scotland, or for exportation, under the provisions of this Act, to or with which shall be added or mixed, either in the rectifying or compounding thereof or otherwise, any sugar, syrup or other sweetening matter, or any ingredient or material whatsoever which shall affect the action of the hydrometer, or prevent the true strength of such Spirits from being correctly ascertained, shall be forfeited, and the Rectifier or Compounder shall forfeit *Two hundred* Pounds.

21.
British Brandy may be coloured in warehouse for exportation.

Provided always, and be it Enacted, That it shall be lawful for any such Rectifier or Compounder to colour any British Brandy intended for exportation in the warehouse after the same shall have been taken into the warehouse, and been examined and taken account of by the Warehouse-keeper or other Officer in charge of the warehouse, on such Rectifier or Compounder giving *Two* Days' notice to such Warehouse-keeper or Officer of his intention to colour such Brandy, specifying in such notice the particular cask or casks in which the same is contained, and the particular time and hour when the colouring matter is to be added.

22.
Commencement of Act.

And be it further Enacted, That this Act shall commence and take effect on the day of *One thousand eight hundred and Thirty-*

23.
Act may be altered in the present Session.

And be it further Enacted, That this Act may be repealed, altered, varied or amended by any Act to be passed in this present Session of Parliament.

Warehoused Spirits Intercourse.

A

BILL

To permit Rectified Spirits and Compounds to be Warehoused for Removal from and to England, Scotland and Ireland respectively, and for Exportation to Foreign Parts, and to be removed and exported under certain Regulations.

(*Prepared and brought in by*
Mr. Chancellor of the Exchequer
and Mr. Baring.)

Ordered, by The House of Commons, *to be Printed,*
15 *July* 1837.

542.

24 *June* 1837.—1 VICT.

A

B I L L

For granting to Her Majesty certain Duties on Sugar imported into the United Kingdom, for the Service of the Year One thousand eight hundred and Thirty-seven.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

MOST GRACIOUS SOVEREIGN,

Preamble.

WE, Your Majesty's most dutiful and loyal Subjects, the Commons of the United Kingdom of Great Britain and Ireland in Parliament assembled, towards raising the necessary Supplies to defray Your Majesty's Public Expenses, have freely and voluntarily resolved to give and grant unto Your Majesty the Duties hereinafter mentioned: AND therefore do most humbly beseech Your Majesty that it may be Enacted; **And be it Enacted**, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the Duties imposed on Sugar and Molasses, by an Act passed in the sixth and seventh years of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act for granting to His Majesty, until the Fifth Day of July One thousand eight hundred and Thirty-seven, certain Duties on Sugar imported into the United Kingdom, for the Service of the year One thousand eight hundred and Thirty-six," shall be further continued until the *Fifth* day of *July One thousand eight hundred and Thirty-eight*.

1.
Duties continued.

And be it Enacted, That the Duties hereby continued shall be collected, paid and accounted for in such and the like manner as if the said Duties had been continued to the *Fifth* day of *July One thousand eight hundred and Thirty-eight*, by the said recited Act.

2.
Duties to be levied as if contained in former Act.

3.
If importation of Foreign Sugar into any British Possession in East Indies is prohibited, Sugar from such Possession may be imported at the low Duty specified in Act.

Provided always, and be it Enacted, That if it shall at any time be proved, to the satisfaction of the Commissioners of Her Majesty's Treasury of the United Kingdom of Great Britain and Ireland, that the importation of Foreign Sugar into any British Possession within the limits of the East India Company's charter is prohibited, it shall be lawful for Her Majesty, by any Order in Council, to allow the importation of Sugar, the growth of any such British Possession, at the lower rate of Duty in the said Act specified, in like manner and under the same restrictions and conditions as Sugar the growth of the Presidency of Fort William, in Bengal, may be imported subject to a lower rate of Duty, under the provisions of the said recited Act.

4.
Accounts to be kept of Duties.

And be it Enacted, That a distinct and separate Account shall be kept, in the office of the Comptroller-General, of the receipt and issue of Her Majesty's Exchequer at Westminster, of all the Money that shall be paid to the Account of Her Majesty's Exchequer at the Bank of England from so much of the said Duties hereby granted on Sugar as shall arise and be payable in Great Britain; and it shall be lawful for the Commissioners of the Treasury of the United Kingdom of Great Britain and Ireland to issue and apply the same from time to time to such Services as shall then have been voted by the Commons of the United Kingdom of Great Britain and Ireland in this present Session of Parliament; and so much of the said Duties on Sugar as shall arise and be payable in Ireland shall be paid into the receipt of the Exchequer in Ireland, and shall be carried to the Consolidated Fund of the United Kingdom of Great Britain and Ireland.

5.
Treasury may direct Exchequer Bills to be made out.

And be it Enacted, That it shall be lawful for the said Commissioners of the Treasury, at any time or times when they shall think fit so to do, to cause or direct any number of Exchequer Bills to be made out at the receipt of the Exchequer at Westminster for any sum or sums of money not exceeding in the whole, including any sum or sums of money issued towards the aids or supplies in pursuance of this Act, the sum of *Three Millions,* in the same or like manner, form and order, and according to the same or like rules and directions, as are directed and prescribed in and by an Act passed in the forty-eighth year of the reign of His Majesty King GEORGE the Third, intituled, "An Act for regulating the issuing and paying off of Exchequer Bills."

6.
Powers of 48 Geo. 3. c. 1. extended to this Act.

And be it Enacted, That all and every the clauses, provisoes, powers, privileges, advantages, penalties, forfeitures and disabilities contained in the said recited Act passed in the forty-eighth year of the reign of His said late Majesty shall be applied and extended to the Exchequer bills to be made out in pursuance of this Act, as fully and effectually to all intents and purposes as if the said several clauses or provisoes had been particularly repeated and re-enacted in the body of this Act.

And

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7. Interest of Exchequr Bills.

And be it Enacted, That the Exchequer Bills to be made out in pursuance of this Act shall and may bear an Interest not exceeding the rate of *Four Pounds* per centum per annum upon or in respect of the whole of the monies respectively contained therein.

8. Bank of England may advance Money on the credit of this Act.

And be it Declared and Enacted, That it shall be lawful for the Governor and Company of the Bank of England to advance or lend to Her Majesty, by placing to the account of Her Majesty's Exchequer at the Bank of England, upon the credit of the Exchequer Bills authorized by this Act, any Sum or Sums of Money not exceeding in the whole the sum of *Three Millions*; any thing in an Act passed in the fifth and sixth years of the reign of King WILLIAM and Queen MARY, intituled, "An Act for granting to their Majesties several Rates and Duties upon Tonnage of Ships and Vessels, and upon Beer, Ale and other Liquors; and for securing certain Recompenses and Advantages in the said Act mentioned to such Persons as shall voluntarily advance the sum of One million five hundred thousand Pounds towards carrying on the War against France," or in any subsequent Act, to the contrary thereof in anywise notwithstanding.

9. Bills to be delivered to the Bank of England, as security for Advances.

And be it Enacted, That it shall be lawful for the said Commissioners of the Treasury, and they are hereby authorized and empowered, to cause such Bills as shall be prepared by virtue of this Act to be delivered from time to time to the Governor and Company of the Bank of England, in such proportions as the public service may require, as security for the advance or advances which may be made to Her Majesty by the said Governor and Company of the Bank of England under the authority of this Act.

10. Exchequer Bills to be charged on the Dutiesgranted by this Act.

Provided always, and be it Enacted, That the Exchequer Bills to be made forth by virtue of this Act, together with the Interest that may become due thereon, shall be and the same are hereby made chargeable and charged upon the Duties granted by this Act; and it shall be lawful for the said Commissioners of the Treasury and they are hereby authorized from time to time to direct to be issued to the Paymasters of Exchequer Bills, by way of imprest and upon account, such sums of money and at such periods as the said Commissioners shall think necessary, for or towards paying off and discharging the Exchequer Bills which shall have been made forth by virtue of this Act, or any of them, and for and towards paying the Interest to become due on the said Bills or any of them.

11. Money due on Exchequer Bills to be paid out of the next Aids.

And be it Enacted, That the Monies remaining unsatisfied or not discharged, with the Interest due or to grow due thereon, shall be paid and satisfied out of the next aid or aids to be granted in Parliament after the *Fifth* day of *July One thousand eight hundred and Thirty-eight.*

12.
Surplus Monies to be carried to the Consolidated Fund.

And be it Enacted, That the surplus of the Monies arising from the Duties granted and imposed by this Act, after paying off and satisfying all the Exchequer Bills issued by virtue of this Act, together with the Interest that may become due thereon, shall, as a surplus of any such Monies respectively, be carried to and made part of the Consolidated Fund of the United Kingdom of Great Britain and Ireland.

13.
Treasury to allow necessary charges of making forth Exchequer Bills.

And be it Enacted, That it shall be lawful for the said Commissioners of the Treasury or any *Three* or more of them for the time being, and they are hereby authorized and empowered to pay and allow or cause to be paid and allowed, out of the Monies to arise of or from the said Duties hereby granted, or of or from the said Consolidated Fund, from time to time, the necessary charges of making forth the Exchequer Bills hereby authorized to be made forth, and such other charges as shall be necessarily incident in or for the execution of this Act, or any part thereof, in relation to the said Bills; any thing herein contained to the contrary notwithstanding.

14.
Money issued to be replaced out of the first Supplies.

Provided always, and be it Enacted, That whatever Monies shall be issued out of the said Consolidated Fund shall from time to time be replaced by and out of the first Supplies to be thereafter granted by Parliament; any thing herein contained to the contrary notwithstanding.

15.
Act may be altered this Session.

And be it Enacted, That this Act may be altered, amended or repealed by any Act to be passed in this present Session of Parliament.

Sugar Duties.

A

B I L L

For granting to Her Majesty certain Duties on Sugar imported into the United Kingdom, for the Service of the Year One thousand Eight hundred and Thirty-seven.

(Prepared and brought in by
Mr. Chancellor of the Exchequer.)

Ordered, by The House of Commons, *to be Printed,*
24 *June* 1837.

424.

30 *June* 1837.—1 Vict.

A

BILL

To impose certain Duties of Excise on Sugar made from Beet-root in the United Kingdom.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS it is expedient to impose a Duty of Excise on Sugar made or manufactured from Beet-root in the United Kingdom; **Be it therefore Enacted**, by The QUEEN's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the *commencement of this Act*, there shall be charged, raised, levied, collected and paid on every *Hundred weight* of Sugar manufactured in the United Kingdom from Beet-root, and so in proportion for any greater or lesser quantity than a *Hundred weight*, a Duty of *One Pound Four Shillings*.

Preamble.

1. Sugar manufactured from Beet-root, to pay a duty of 1*l*. 4*s*. per cwt.

And be it further Enacted, That the said Duties by this Act imposed shall be under the management of the Commissioners of Excise, and shall be charged, raised, levied, collected, paid and recovered and accounted for, under the authority of this Act, and in such and the like manner, and in and by any of the general or special means, ways or methods, and under and subject to the like pains, penalties and forfeitures by which any other Duties of Excise are or may be charged, raised, levied, collected, paid, recovered and accounted for; and all the monies arising by the Duties by this Act imposed and made payable as aforesaid,

2. Duties to be under the management of the Commissioners of Excise.

aforesaid, the necessary charges of raising, recovering and accounting for the same excepted, shall from time to time be paid into the receipt of Her Majesty's Exchequer at Westminster, and shall be carried to and made part of the Consolidated Fund of the United Kingdom of Great Britain and Ireland.

3.
Manufacturers of Beet-root Sugar to make entry of their Premises.

And be it further Enacted, That every maker or manufacturer of Sugar from Beet-root shall, before he shall commence to make or manufacture any Sugar, or to prepare any materials for the making or manufacturing of any Sugar, make a true and particular entry, in writing, of all and every cylinder or mill, press, vat, copper, cistern, pan and other vessel or utensil, sugar-house, warehouse, store-room and place intended to be made use of by him for the making or keeping any Sugar, or the preparing any materials for making the same, by delivering such entry to the proper Officer of Excise authorized to receive the same; and in every such entry every sugar-house, warehouse, store-room and place, cylinder or mill, press, vat, copper, cistern, pan and other vessel or utensil, shall be distinguished by a particular number or letter, or number and letter or letters, and the respective purpose for which the same is to be used shall be specified and described; and every such entry shall also set forth the name and place of abode of the person or persons making the same, and the place where his or their premises or sugar-house shall be situated, and shall be signed by such maker or makers; and in default of making such entry, such maker shall, for every unentered sugar-house, warehouse, store-room or place, cylinder or mill, press, vat, copper, cistern, pan or other vessel or utensil, forfeit *Two hundred* Pounds, together with all sugar-juice, syrup, materials and goods therein.

4.
Premises to be marked.

And be it further Enacted, That every maker or manufacturer of Sugar from Beet-root shall mark and number, and at all times keep marked and numbered every sugar-house, warehouse, store-room and place, cylinder or mill, press, vat, copper, cistern, pan and other vessel and utensil by him made use of for the making or manufacturing or keeping of such Sugar, with distinguishing numbers or letters, or numbers and letters, denoting the purpose for which each is respectively used, and corresponding to the description thereof in the entry; and every sugar-house, warehouse, store-room and place, cylinder or mill, press, vat, copper, cistern, pan and other vessel and utensil which shall not be so marked or numbered, or which shall not correspond with the description in the entry, or the use whereof shall not be described and specified in the entry, shall be deemed and taken to be unentered.

5.
Power for Officers of Excise to enter Sugar-houses, and to take account of Sugar-juice, Syrup, &c.

And be it further Enacted, That it shall be lawful for any Officer of Excise at all times, by day or by night, upon his request, to enter into every sugar-house, warehouse, store-room or other place whatsoever entered or made use of by any maker or manufacturer of Sugar from Beet-root for the making or manufacturing or keeping of such Sugar, and to inspect and examine the same, and all sugar-juice, syrup, liquor and materials making into Sugar, and from time to time to examine, weigh and take an account of all Sugar, and to gauge or otherwise take an account of the capacity or content of each and every vat, copper, cistern, pan or other vessel directed to be gauged or the capacity thereof ascertained by this Act, or by any order of the Commissioners of Excise, and also to examine, gauge and take an account of all the juice, syrup, liquor or material making into Sugar in every such vat, copper, cistern, pan or other vessel or utensil; and every maker or manufacturer of Sugar from Beet-root into whose sugar-house or premises aforesaid any Officer of Excise shall on his request be prevented or hindered from entering, or, having entered, shall be hindered or prevented from doing any such Act as aforesaid, shall forfeit *Two hundred* Pounds.

6.
Syrup-cistern, or any other Vessel, ordered by the Commissioners of Excise to be gauged, not to be made use of until gauged and tabled.

And be it further Enacted, That no maker or manufacturer of Sugar from Beet-root shall make use of any syrup-cistern, or any vat, copper, pan or other vessel or utensil directed by the Commissioners of Excise to be gauged and the dimensions thereof ascertained before the same shall have been gauged and tabled by the Supervisor or other proper Officer of Excise, on pain of forfeiting *Twenty* Pounds for every day the same shall be so used.

7.
Size or position of any Vessel not to be altered after having been gauged and tabled, except on notice.

And be it further Enacted, That no such maker or manufacturer of Sugar from Beet-root shall in any manner alter, or suffer to be altered, the size, position or level of any syrup-cistern, or any vat, copper, pan or other vessel or utensil directed to be gauged and tabled at any time after the Supervisor or proper Officer of Excise shall have gauged and ascertained the capacity or content thereof, except on notice in writing to the Officer of Excise of the intended alteration, on pain of forfeiting *One hundred* Pounds.

8.
Notice to be given of every grinding or mashing of materials to be made into Sugar.

And be it further Enacted, That every such maker or manufacturer of Sugar shall, from time to time, at least *Four* Hours before he shall begin to rasp, grind or mash any Beet-root for the making of Sugar, deliver to the proper Officer of Excise a notice in writing, in which shall be set forth the day and hour when such rasping, grinding or mashing is to be commenced, on pain of forfeiting *One hundred* Pounds for every omission to give such notice.

9.
When Juice or Syrup is collected in the syrup-pan, a declaration of the Quantity and Gravity to

And be it further Enacted, That every such maker or manufacturer of Sugar shall from time to time, when and as often as any juice or syrup shall be clarified and run into and collected in the syrup-cistern, immediately and without delay deliver to the proper be given to the Officer, who is to attend and take an account of it.

Officer of Excise a declaration in writing specifying the particular syrup-cistern, if there shall be more than one in the house in which such juice or syrup shall be contained, and setting forth the quantity of such juice or syrup, and the particular gravity thereof, and thereupon the Officer of Excise shall attend and take an account of the quantity and gravity of such juice or syrup; and no part of such juice or syrup shall be drawn off or removed from the syrup-cistern for the space of *Two* Hours after such declaration shall have been delivered, unless the proper Officer of Excise shall have previously taken an account of the quantity and gravity thereof; and every such maker or manufacturer of Sugar in whose sugar-house any juice or syrup shall be drawn off or removed from the syrup-cistern, without such declaration as aforesaid having been delivered, or before the expiration of *Two* Hours after such declaration having been delivered (except as aforesaid), or by whom or on whose behalf any untrue declaration of the quantity or gravity of the juice or syrup in the syrup-cistern shall be delivered, shall forfeit *One hundred* Pounds.

10.
Officer may take Samples from the Syrup-cistern, and the Gravity of such Samples to be deemed the Gravity of the whole contents of the Cistern.

And be it further Enacted, That it shall be lawful for any Officer of Excise from time to time and whenever and as often as he shall deem it expedient, to take any sample or samples of any juice or syrup in any syrup-cistern in the sugar-house of every such maker or manufacturer of Sugar, in order that such Officer may ascertain the gravity of such juice or syrup, and from such part of any such syrup-cistern as such Officer shall think proper; and the gravity of any such sample so taken shall be and be held to be the true gravity of the whole contents of the syrup-cistern from which any such sample shall be so taken: Provided always, That before any such sample shall be so taken, all the liquor contained in any such syrup-cistern may be stirred and mixed up or mixed together by such maker or manufacturer of Sugar, or by any person in his employ, if they shall think fit so to do.

11.
The Juice or Syrup, after the Quantity and Gravity shall have been ascertained, to be run off to the Sugar-pan, and to be kept separate in the rest of the process of manufacture.

And be it further Enacted, That after the Officer of Excise shall have ascertained and taken an account of the quantity and gravity of the juice or syrup in the syrup-cistern, or at the expiration of *Two* Hours after such declaration as aforesaid shall have been delivered, all such juice or syrup shall be run off from such cistern, and removed into the sugar-pan, and continued in the process of being made into Sugar; and after such declaration as aforesaid shall have been delivered, no other juice, syrup or sugar shall be added to or mixed with such juice or syrup in respect of which such declaration shall have been delivered; but the same shall be kept separate and distinct in the process of manufacture, until the Sugar, the produce thereof, shall have been weighed and charged with Duty; and if such juice or syrup shall not be so kept separate and distinct in the process of manufacture, or if any other juice, syrup or sugar shall be added thereto, the maker or manufacturer of Sugar shall forfeit *One hundred* Pounds.

12.
When the manufacture of Sugar is completed, Notice to be given of the time when it will be ready to be weighed.

And be it further Enacted, That every such maker or manufacturer of Sugar shall within after all the Sugar produced from any juice or syrup, in respect of which such declaration as aforesaid shall have been delivered, or of which such account shall have been taken in the syrup-cistern shall be made, and the manufacture thereof completed, give to the Officer of Excise under whose survey he shall be, a notice in writing, specifying the day and hour when such Sugar will be ready to be weighed and charged with Duty; and thereupon such Officer shall attend and weigh and take an account of all such Sugar, and shall charge the same with Duty, in the manner hereinafter mentioned; and if any such maker or manufacturer of Sugar shall refuse or neglect to give such notice, or shall remove such Sugar, or any part thereof, without having given such notice, or before the Officers of Excise shall have weighed and taken an account of the same, he shall forfeit *Two hundred* Pounds.

13.
Mode of charging the Duty,—First, from the gravity of the Syrup;

And be it further Enacted, That for and in respect of every gallon of juice or syrup which shall be made in the sugar-house of any maker or manufacturer of Sugar from Beet-root, and run into and collected in the syrup-cistern, the Officer of Excise shall charge such maker or manufacturer of Sugar for a quantity of Sugar, in proportion to the gravity of such juice or syrup, as set forth in the declaration thereof, or as ascertained and taken account of by such Officer, according to a Table to be prepared under the directions of and approved by the Commissioners of Excise for showing the quantity of Sugar contained in any given quantity of juice or syrup, according to the specific gravity thereof, as ascertained by the saccharometer, after making an allowance of *Fifty* per centum on such quantity for molasses, drainage and wash.

14.
Second, by the weight of the Sugar produced.

And be it further Enacted, That whenever any Officer of Excise shall weigh and take an account of any Sugar made at the sugar-house of any such maker or manufacturer of Sugar after the same shall have been manufactured and finished, such Officer shall charge the maker or manufacturer of such Sugar on the full quantity of Sugar which he shall so weigh and take an account of, exclusive of any waste or drainage which may have run therefrom.

15.
Officer of Excise to make out a return of the Duty every Six Weeks, and charge the maker by whichever mode will

And be it further Enacted, That every Officer of Excise under whose survey any such maker or manufacturer of Sugar shall be, or any other Officer who shall be appointed so to do, shall from time to time, at the expiration of every *Six* Weeks, or at such other times as the Commissioners of Excise shall direct, make out and deliver to the produce the highest amount of Duty.

Collector of Excise, or to such person or persons as the Commissioners of Excise shall appoint to receive the same, an Account or Return in writing of the quantity of Sugar for which such maker of Sugar shall have become chargeable with Duty in such preceding *Six* Weeks or period, and of the Duty payable thereon; and every such Officer is hereby required in every such Return to charge and such Officer shall charge such maker or manufacturer according to whichever of the modes of charging hereinbefore prescribed shall produce the highest amount of Duty; and such Officer shall also leave a copy of such Account or Return with such maker or manufacturer, and the Account or Return of such Officer shall be a charge on every such maker or manufacturer of Sugar, who shall pay and clear off the Duty appearing by such Account or Return to have become due within *Six* Days after such Account or Return shall have been made, or, in default thereof, shall forfeit *Double* the amount of such Duty.

16.
Any Saccharometer prescribed by the Commissioners of Excise may be used for ascertaining the Gravity of the Syrup.

And be it further Enacted, That any such Saccharometer may be used for ascertaining the gravity of juice or syrup for the charge of Duty under the provisions of this Act, as shall from time to time be ordered and prescribed by any order of the Commissioners of Excise; and all juice and syrup shall for the purposes of this Act be deemed and taken to be of the gravity at which such Saccharometer shall on the application thereof denote or indicate such juice or syrup to be: Provided always, That it shall not be necessary on the trial of any information, action, suit or other proceeding, to produce or give in evidence any such order of the Commissioners of Excise for the use of any such Saccharometer.

17.
Makers of Sugar to keep Scales and Weights, and permit the Officers of Excise to use them.

And be it further Enacted, That every such maker or manufacturer of Sugar shall and he is hereby required to provide and keep in his sugar-house just and sufficient scales and weights affixed and placed in a proper and convenient place, to be approved of by the Supervisor or Surveyor of Excise; and every such maker or manufacturer shall permit and suffer any Officer of Excise to use the said scales and weights for the purpose of weighing and taking an account of all the Sugar which shall be at any time in the possession of any such maker or manufacturer; and every such maker or manufacturer of Sugar who shall neglect to keep such scales and weights so affixed and placed as aforesaid, or who shall not permit or suffer any Officer of Excise to use the same, shall forfeit *One hundred* Pounds; and every such maker or manufacturer who shall, in the weighing of any Sugar, make use of, or procure or suffer to be made use of, any false or unjust or insufficient scales or weights, or who shall make use of any force or violence, or practise any art, device or contrivance, by which any Officer of Excise may be hindered or prevented or deceived in taking the true account or weight of any Sugar, or charging the true amount of Duty thereon, shall forfeit *Three hundred* Pounds, together with all the Sugar weighed or produced to be weighed at the time of such offence, and all such unjust or insufficient scales or weights.

18. Maker of Sugar to assist with his Servants in weighing.

And be it further Enacted, That every such maker or manufacturer of Sugar shall, when and as often as he shall be thereto required by any Officer of Excise, aid and assist the Officers of Excise with a sufficient number of his workmen or servants in weighing and taking an account of all Sugar in the possession of such maker or manufacturer required to be weighed under the provisions of this Act, on pain of forfeiting for every refusal or neglect *One hundred* Pounds.

19. Sugar not charged with Duty to be kept separate from Sugar which has been charged.

And be it further Enacted, That every such maker or manufacturer of Sugar shall at all times keep all Sugar which shall not have been charged with Duty separate and apart from all Sugar which shall have been so weighed and charged, on pain of forfeiting *One hundred* Pounds.

20. Penalty on evading the Duty.

And be it further Enacted, That every such maker or manufacturer of Sugar who shall hide or conceal, or cause to be hidden or concealed, or shall remove or convey away or deposit, or cause to be removed or conveyed away from or deposited in any place, any Sugar, or any juice or syrup, to evade the Duties chargeable thereon, or any part of such Duties, or before the full Duties shall have been charged thereon, shall over and above every other penalty to which he may in so doing become subject, forfeit *Five hundred* Pounds.

21. Provisions of 7 & 8 Geo. 4, c. 53, and 4 & 5 Will 4, c. 51, to extend to this Act.

And be it further Enacted, That all the powers, provisions, clauses and enactments, pains, penalties and forfeitures contained in an Act passed in the seventh and eighth years of the reign of his Majesty King George the Fourth, intituled, "An Act to consolidate and amend the Laws relating to the Collection and Management of the Revenue of Excise throughout Great Britain and Ireland," and of an Act passed in the fourth and fifth years of the reign of his late Majesty King William the Fourth, intituled, "An Act to amend the Laws relating to the Collection and Management of the Revenue of Excise," shall, except when otherwise hereby provided for, extend to and be applied to this Act, and to the Duties hereby granted, and penalties and forfeitures hereby imposed.

22. Commencement of Act.

And be it further Enacted, That this Act shall commence and take effect on the passing thereof.

23. Act may be repealed or altered in the present Session.

And be it further Enacted, That this Act may be altered, amended or repealed by any Act to be passed in this present Session of Parliament.

Beet-root Sugar.

A

B I L L

To impose certain Duties of Excise on Sugar made from Beet-root in the United Kingdom.

(Prepared and brought in by
Mr. Poulett Thomson and Mr. Labouchere.)

Ordered, by The House of Commons, *to be Printed,*
30 *June* 1837.

452.

24 *April* 1837.—7 WILL. IV.

(Ireland.)

A
BILL

To enable Tenants for Life of Estates in Ireland to make Improvements in their Estates, and to charge the Inheritance with the Monies expended in such Improvements.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble:

WHEREAS it would lead to the improvement of property in Ireland, and be advantageous to the Public, if Tenants for Life were empowered, under proper restrictions, to make permanent improvements in their Estates, and to charge the Inheritance thereof with the Monies expended by them for that purpose; BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the *passing of this Act*, it shall and may be lawful for any Tenant for Life to apply by Petition to His Majesty's Court of Chancery in Ireland, for leave to make any permanent improvements in the lands and hereditaments to which he shall be entitled, or any part thereof, either by draining, enclosing or planting the same, or otherwise rendering the same fit for cultivation; and in every such Petition shall be specified the improvements proposed to be made, and the estimated cost thereof; and every such Petition shall be referred to a Master of the said Court of Chancery, to inquire into and ascertain the propriety of such improvements being effected; and such Master shall and the is hereby required to call for such plans and estimates and specifications in relation to the said proposed improvements as he shall think fit, and shall cause the same to be laid before the Commissioners for the time being appointed for the extension and promotion of Public Works in Ireland, who shall and they are hereby required to report

1. Tenants for Life may apply to Court of Chancery for leave to make Improvements.

thereupon to such Master; and after such Report shall have been made to and considered by such Master, he shall make his report respecting such proposal; and the Court to which any such application shall be made shall make such order upon such Petition and Report, and as to the costs of the application, as such Court shall think fit, and as shall be in conformity with the provisions of this Act.

2.
Commissioners of Public Works may employ Surveyor.

And be it further Enacted, That for enabling the said Commissioners of Public Works to make their Report according to the provision last hereinbefore contained, it shall be lawful for them, if they shall think fit, to employ a Surveyor to inspect the lands and hereditaments proposed to be improved, and to advise upon the improvements proposed to be made, and all expenses incidental to any such application to the said Commissioners shall, in the first instance, be paid by the tenant for life who presented the Petition, who, if required by the Board, shall pay the same in advance; but shall afterwards be defrayed in such manner or by such persons as the Court to which the Petition shall be preferred shall direct.

3.
Copy of Petition to be served on Parties interested.

Provided always, and be it Enacted, That a copy of every such Petition shall be served *Twenty-one* Days at the least before the hearing thereof upon the person or persons entitled to the first vested estate of inheritance in remainder after the estate of the tenant for life, and every intervening tenant for life and other person having an intervening partial estate in the lands and hereditaments so proposed to be improved; but if any of such persons shall be of unsound mind, or under the age of *Twenty-one* Years, or under any other legal disability, or beyond the limits of the United Kingdom of Great Britain and Ireland, then a copy of such Petition shall be served on his, her or their behalf upon such person or persons respectively as the said Court of Chancery to which the said Petition shall be preferred shall appoint for that purpose; and every person upon whom a copy of any such Petition shall be so served, shall be at liberty to attend before the Master to whom such Petition shall be referred, and to consent or object to the proposal contained in such Petition.

4.
Tenant for Life may make Improvements, if the Court sanctions it.

And be it further Enacted, That in every case where it shall be proved to the satisfaction of the Court to whom any such Petition shall be preferred, that the proposed improvements are proper and judicious, and will be advantageous to the persons entitled in reversion or remainder, and the said Court shall order or direct that the proposed improvements may be made, it shall be lawful for the tenant for life who shall have presented such Petition to make and execute such improvements accordingly.

5. After Improvements have been made, Court to ascertain what Money has been properly expended, and to order it to be charged on Inheritance.

And be it Enacted, That in every case where the said Court of Chancery shall, in pursuance of the provisions of this Act, have made an order sanctioning the execution of any improvements of any lands or hereditaments, and such improvements shall have been made accordingly, it shall be lawful for such Court, upon the Petition of the tenant for life who shall have made such improvements, to inquire into and ascertain the amount actually expended in such improvements, and upon proof thereof being made to the satisfaction of the said Court and the said Board of Works, to order and direct that the tenant for life who shall have made such improvements shall be at liberty to charge the inheritance of the lands and hereditaments so improved, and of all or any other lands and hereditaments held therewith under the same instrument, with the amount of the monies so expended, and the expenses of and incidental to the applications to the said Court, together with interest at any rate not exceeding *Five* Pounds per centum per annum.

6. Money to be charged not to exceed Three Years' Rent or Value.

Provided always, and be it Enacted, That the principal money to be so charged under or by virtue of the provisions aforesaid, shall in no case exceed the amount of *Three* Years' rent or clear yearly value of the said lands and hereditaments so authorized to be charged (to be ascertained by an average of the last *Nine* Years' rent or clear yearly value thereof), such rent or clear yearly value to be over and above all rates and taxes payable in respect of such lands and hereditaments, and all interest on charges affecting the said inheritance, except the interest of the money so to be charged in respect of such improvements.

7. Method of ascertaining the average Rent or yearly Value.

AND for ascertaining the average amount of the rent or clear yearly value of any lands and hereditaments, the inheritance of which shall be sought to be charged under the provisions of this Act, in respect of money expended in permanent improvements as aforesaid; BE it Enacted, That when any reference shall be made under the provisions of this Act as to the propriety of any improvements being carried into effect, or as to such money having been properly laid out, the Master to whom such reference shall be made shall inquire and report what has been the yearly rent or clear yearly value of the said lands and hereditaments so to be charged during the last *Nine* Years which shall have elapsed before the date of his said Report.

8. Tenants for Life may charge the Inheritance according to the order of the Court.

And be it Enacted, That when and so soon as or at any time after the said Court of Chancery shall have made any order under the provisions of this Act, directing that any money which shall have been ascertained to have been expended in permanent improvements of any lands or hereditaments may be charged on the inheritance thereof, it shall be lawful for the tenant for life, who shall have obtained such order, his executor or administrator, to charge or demise the said lands and hereditaments so chargeable to or in favour of any person or persons whomsoever, for securing the repayment of such sum as shall be chargeable on the inheritance of the said lands and hereditaments, under the provisions of this Act, with all such costs of the application to the said Court as such Court shall direct to be so charged, and interest for the same respectively at the rate aforesaid; and if the tenant for life shall advance such sum and costs, then he or she shall have a lien on the inheritance for repayment thereof, with interest from his or her decease at the rate aforesaid.

9.
When Money paid, Charge to become void.

Provided always, and be it Enacted, That when and so soon as the money secured by any such charge or demise shall be fully paid and satisfied by or on behalf of any persons or person who shall be entitled to the inheritance of and in the said lands and hereditaments, every such charge or demise shall be and become absolutely null and void.

10.
Persons entitled in remainder not to be liable to more than Twelve Months' Interest.

Provided also, and be it Enacted, That no persons or person becoming entitled to the possession or receipt of the rents of the said lands and hereditaments, after the determination of any preceding estate or interest therein, shall be liable to pay any further or larger arrear of interest than for *Twelve* calendar Months next preceding the time when the title to such possession or receipt of rents shall have commenced.

11.
Master to indorse on Deed of Charge a Statement of the average Rental.

And be it Enacted, That the Master by whom the average amount of rent or yearly value shall be ascertained as aforesaid, or his successor in office, shall and he is hereby required to indorse a statement of the amount thereof on every Indenture of charge or demise, and to sign the said indorsement and to set forth the date thereof; and every such statement shall be binding and conclusive.

12.
Tenant for Life may apply to Commissioners for Loans.

And be it Enacted, That it shall and may be lawful for any tenant for life, hereby authorized to make such improvements as aforesaid, to apply to the Commissioners appointed for carrying into execution the purposes of an Act of Parliament passed in the first and second years of the reign of His present Majesty, intituled, "An Act for Extension and Promotion of Public Works in Ireland," or any other Act to be hereafter passed for the like purpose, for the loan of any sum or sums of money for defraying the expenses of any such improvements proposed to be or in course of being made under the authority of this Act, at interest, after the rate and upon the terms mentioned in the said Act, or any other Act to be hereafter passed for the like purpose, for loans to individuals for the drainage or other improvement of lands.

13.
Commissioners, with consent of the Lords Commissioners of His Majesty's Treasury, may advance any Sum applied for.

And be it Enacted, That it shall and may be lawful for the Commissioners appointed for carrying the purposes of the said Act, or any other Act to be hereafter passed for the like purposes, into execution, to receive any such application which shall be so made to them; and if they shall think proper, and the Lords Commissioners of His Majesty's Treasury shall consent thereto, to advance and lend the sum or sums so applied for, at such rate of interest and upon such terms as are hereinbefore referred to.

14.
Definition of term "Tenant for Life" in this Act.

And be it further Enacted, That the term "Tenant for Life" shall extend to any person entitled, either legally or equitably, to an estate or interest in any lands or other hereditaments for the term of his or her own life, or for any term of years determinable on his or her life, including all Corporations, aggregate and sole, and also all Bishops, Parsons and other Ecclesiastical Persons, as to lands or other hereditaments held by them in those respective characters.

15.
Act not to enable a Lessee to affect the interest of his Landlord.

Provided always, and be it Enacted, That the provisions of this Act shall not enable any Lessee to charge or in anywise affect the interest of his Landlord in any lands or other hereditaments held under or by virtue of a lease; but nevertheless any Lessee being such tenant for life in possession as hereinbefore mentioned, shall and may exercise all or any of the powers of this Act, so as to charge or bind the interest of every person entitled or interested in remainder after the determination of the estate or interest of such tenant for life, to or in the term, estate or interest granted or created by the lease under or by virtue whereof the lands or other hereditaments are so holden.

16.
Act may be repealed or altered.

And be it further Enacted, That this Act may be repealed or altered by any Acts or Act during the present Session of Parliament.

Tenants for Life.

(Ireland.)

A

BILL

To enable Tenants for Life of Estates in Ireland to make Improvements in their Estates, and to charge the Inheritance with the Monies expended in such Improvements.

(*Prepared and brought in by*
Mr. Lynch and Mr. Wyse.)

Ordered, by The House of Commons, *to be Printed,*
24 *April* 1837.

237.

(Ireland.)

A

BILL

[AS AMENDED BY THE COMMITTEE]

To enable Tenants for Life of Estates in *Ireland* to make Improvements in their Estates, and to charge the Inheritance with the Monies expended in such Improvements.

Preamble:

WHEREAS it would lead to the improvement of property in *Ireland*, and be advantageous to the Public, if Tenants for Life were empowered, under proper restrictions, to make permanent improvements in their Estates, and to charge the Inheritance thereof with the Monies expended by them for that purpose; BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the passing of this Act, it shall and may be lawful for any Tenant for Life to apply by Petition to Her Majesty's Court of Chancery in *Ireland*, for leave to make any permanent improvements in the lands and hereditaments to which he shall be entitled, or any part thereof, either by draining, enclosing or planting the same, or otherwise rendering the same fit for cultivation; and in every such Petition shall be specified the improvements proposed to be made, and the estimated cost thereof; and every such Petition shall be referred to a Master of the said Court of Chancery, to inquire into and ascertain the propriety of such improvements being effected; and such Master shall and he is hereby required to call for such plans and estimates and specifications in relation to the said proposed improvements as he shall think fit, and shall cause the same to be laid before the Commissioners for the time being appointed for the extension and promotion of Public Works in *Ireland*, who shall and they are hereby required to report

1. Tenants for Life may apply to Court of Chancery for leave to make Improvements.

thereupon to such Master; and after such Report shall have been made to and considered by such Master, he shall make his report respecting such proposal; and the Court to which any such application shall be made shall make such order upon such Petition and Report, and as to the costs of the application, as such Court shall think fit, and as shall be in conformity with the provisions of this Act.

2.
Commissioners of Public Works may employ Surveyor.

And be it Enacted, That for enabling the said Commissioners of Public Works to make their Report according to the provision last hereinbefore contained, it shall be lawful for them, if they shall think fit, to employ a Surveyor to inspect the lands and hereditaments proposed to be improved, and to advise upon the improvements proposed to be made, and all expenses incidental to any such application to the said Commissioners shall, in the first instance, be paid by the tenant for life who presented the Petition, who, if required by the Board, shall pay the same in advance; but shall afterwards be defrayed in such manner or by such persons as the Court to which the Petition shall be preferred shall direct.

3.
Copy of Petition to be served on Parties interested.

Provided always, and be it Enacted, That a copy of every such Petition shall be served Twenty-one Days at the least before the hearing thereof upon the person or persons entitled to the first vested estate of inheritance in remainder after the estate of the tenant for life, and every intervening tenant for life and other person having an intervening partial estate in the lands and hereditaments so proposed to be improved; but if any of such persons shall be of unsound mind, or under the age of Twenty-one Years, or under any other legal disability, or beyond the limits of the United Kingdom of *Great Britain* and *Ireland*, then a copy of such Petition shall be served on his, her or their behalf upon such person or persons respectively as the said Court of Chancery to which the said Petition shall be preferred shall appoint for that purpose; and every person upon whom a copy of any such Petition shall be so served, shall be at liberty to attend before the Master to whom such Petition shall be referred, and to consent or object to the proposal contained in such Petition.

4.
Tenant for Life may make Improvements, if the Court sanctions it.

And be it Enacted, That in every case where it shall be proved to the satisfaction of the Court to whom any such Petition shall be preferred, that the proposed improvements are proper and judicious, and will be advantageous to the persons entitled in reversion or remainder, and the said Court shall order or direct that the proposed improvements may be made, it shall be lawful for the tenant for life who shall have presented such Petition to make and execute such improvements accordingly.

And

5. After Improvements have been made, Court to ascertain what Money has been properly expended, and to order it to be charged on Inheritance.

And be it Enacted, That in every case where the said Court of Chancery shall, in pursuance of the provisions of this Act, have made an order sanctioning the execution of any improvements of any lands or hereditaments, and such improvements shall have been made accordingly, it shall be lawful for such Court, upon the Petition of the tenant for life who shall have made such improvements, to inquire into and ascertain the amount actually expended in such improvements, and upon proof thereof being made to the satisfaction of the said Court and the said Board of Works, to order and direct that the tenant for life who shall have made such improvements shall be at liberty to charge the inheritance of the lands and hereditaments so improved, and of all or any other lands and hereditaments situate in the same Barony, and held therewith under the same limitations contained in the same instrument or the same set of instruments, with three-fourth parts of the amount of the monies so expended, and the expenses of and incidental to the applications to the said Court, together with interest at any rate not exceeding Five Pounds per centum per annum.

6. Money to be charged not to exceed Three Years' Rent or Value.

Provided always, and be it Enacted, That the principal money to be so charged under or by virtue of the provisions aforesaid, shall in no case exceed the amount of Three Years' rent or clear yearly value of the said lands and hereditaments so authorized to be charged (to be ascertained by an average of the last Nine Years' rent or clear yearly value thereof), such rent or clear yearly value to be over and above all rates and taxes payable in respect of such lands and hereditaments, and all interest on charges affecting the said inheritance, except the interest of the money so to be charged in respect of such improvements.

7. Method of ascertaining the average Rent or yearly Value.

AND for ascertaining the average amount of the rent or clear yearly value of any lands and hereditaments, the inheritance of which shall be sought to be charged under the provisions of this Act, in respect of money expended in permanent improvements as aforesaid; BE it Enacted, That when any reference shall be made under the provisions of this Act as to the propriety of any improvements being carried into effect, or as to such money having been properly laid out, the Master to whom such reference shall be made shall inquire and report what has been the yearly rent or clear yearly value of the said lands and hereditaments so to be charged during the last Nine Years which shall have elapsed before the date of his said Report.

8. Tenants for Life may charge the Inheritance according to the order of the Court.

And be it Enacted, That when and so soon as or at any time after the said Court of Chancery shall have made any order under the provisions of this Act, directing that any money which shall have been ascertained to have been expended in permanent improvements of any lands or hereditaments may be charged on the inheritance thereof, it shall be lawful for the tenant for life, who shall have obtained such order, his executor or administrator, to charge or demise the said lands and hereditaments so chargeable to or in favour of any person or persons whomsoever, for securing the repayment of such sum as shall be chargeable on the inheritance of the said lands and hereditaments, under the provisions of this Act, with all such costs of the application to the said Court as such Court shall direct to be so charged, and interest for the same respectively at the rate aforesaid; and if the tenant for life shall advance such sum and costs, then he or she shall have a lien on the inheritance for repayment thereof, with interest from his or her decease at the rate aforesaid.

9.
When Money paid, Charge to become void.

Provided always, and be it Enacted, That when and so soon as the money secured by any such charge or demise shall be fully paid and satisfied by or on behalf of any persons or person who shall be entitled to the inheritance of and in the said lands and hereditaments, every such charge or demise shall be and become absolutely null and void.

10.
Persons entitled in remainder not to be liable to more than Twelve Months' Interest.

Provided also, and be it Enacted, That no persons or person becoming entitled to the possession or receipt of the rents of the said lands and hereditaments, after the determination of any preceding estate or interest therein, shall be liable to pay any further or larger arrear of interest than for Twelve calendar Months next preceding the time when the title to such possession or receipt of rents shall have commenced.

11.
Master to indorse on Deed of Charge a Statement of the average Rental.

And be it Enacted, That the Master by whom the average amount of rent or yearly value shall be ascertained as aforesaid, or his successor in office, shall and he is hereby required to indorse a statement of the amount thereof on every Indenture of charge or demise, and to sign the said indorsement and to set forth the date thereof; and every such statement shall be binding and conclusive.

12.
Tenant for Life may apply to Commissioners for Loans.

And be it Enacted, That it shall and may be lawful for any tenant for life, hereby authorized to make such improvements as aforesaid, to apply to the Commissioners appointed for carrying into execution the purposes of an Act of Parliament passed in the first and second years of the reign of his late Majesty King William the Fourth, intituled, "An Act for Extension and Promotion of Public Works in *Ireland*," or any other Act to be hereafter passed for the like purpose, for the loan of any sum or sums of money for defraying the expenses of any such improvements proposed to be or in course of being made under the authority of this Act, at interest, after the rate and upon the terms mentioned in the said Act, or any other Act to be hereafter passed for the like purpose, for loans to individuals for the drainage or other improvement of lands.

13. Definition of term "Tenant for Life" in this Act.

And be it Enacted, That the term "Tenant for Life" shall extend to any person entitled, either legally or equitably, to an estate or interest in any lands or other hereditaments for the term of his or her own life, or for any term of years determinable on his or her life, including all Corporations, aggregate and sole, and also all Bishops, Parsons and other Ecclesiastical Persons, as to lands or other hereditaments held by them in those respective characters; but so that, as regards all Parsons and other Ecclesiastical Persons (except Bishops and Deans and Chapters), the consent of their Patron and Ordinary be obtained to the exercise of the powers of this Act; and in case such Ordinary or Patron shall not give such consent, a copy of such Petition as hereinbefore mentioned shall be served upon such Ordinary or Patron; and every such Ordinary or Patron so served with such Petition as aforesaid, shall be at liberty to attend before the Master to whom such Petition shall be referred, and to object to the proposal contained in such Petition.

14. Act not to enable a Lessee to affect the interest of his Landlord.

Provided always, and be it Enacted, That the provisions of this Act shall not enable any Lessee to charge or in anywise affect the interest of his Landlord in any lands or other hereditaments held under or by virtue of a lease; but nevertheless any Lessee being such tenant for life in possession as hereinbefore mentioned, shall and may exercise all or any of the powers of this Act, so as to charge or bind the interest of every person entitled or interested in remainder after the determination of the estate or interest of such tenant for life, to or in the term, estate or interest granted or created by the lease under or by virtue whereof the lands or other hereditaments are so holden.

15. Act may be repealed or altered.

And be it further Enacted, That this Act may be repealed or altered by any Acts or Act during the present Session of Parliament.

Tenants for Life.

(Ireland.)

A

BILL

[AS AMENDED BY THE COMMITTEE]

To enable Tenants for Life of Estates in *Ireland* to make Improvements in their Estates, and to charge the Inheritance with the Monies expended in such Improvements.

(*Prepared and brought in by*
Mr. Lynch and Mr. Wyse.)

Ordered, by The House of Commons, *to be Printed*,
23 *June* 1837.

418.

24 *April* 1837.—7 WILL. IV.

(Ireland.)

A

BILL

To enable Tenants for Life and Mortgagors in possession of Lands in Ireland to grant Leases, and to enable Tenants for Life of Lands in Ireland to make Exchange, and for giving a summary Remedy for Partition in all cases as to Lands in Ireland.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble:

BE it Enacted by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the *passing of this Act*, it shall be lawful for every Tenant for life in possession of any Lands in Ireland to demise or lease the Lands of which he shall be so Tenant for life in possession to any person for any term or number of years not exceeding *Twenty-one* Years, to take effect in possession, or within *One-half* Year after the making of such lease, so as upon every such lease there be reserved and made payable during the continuance thereof, to be incident to and go along with the reversion expectant thereon, the best and most improved yearly rent that can be reasonably obtained for the same, without taking any sum or sums of money, or other thing by way of premium, for or in respect of the same lease, and so as the lessee to be named in any such lease be not made dispunishable for waste by any express words therein contained, and so as in every such lease there be contained a condition for re-entry on non-payment of the rent to be thereby reserved, and so as every lessee do execute a counterpart of his lease, and do thereby covenant for payment of the rent to be thereby reserved.

1. Tenants for life in possession empowered to grant Leases for Twenty-one Years at the best Rent.

2.
Tenants for life in possession empowered to grant repairing and building Leases.

And be it Enacted, That from and after the *passing of this Act* it shall be lawful for every Tenant for life in possession of any lands in Ireland to demise or lease the lands of which he shall be so Tenant for life in possession to any person who shall be willing to take the same for the purpose of effectually repairing or rebuilding any erections or buildings standing upon the lands so to be leased, or any part thereof, or for the purpose of erecting new buildings upon such lands, or any part thereof, with liberty to take or pull down any erection or building then standing or being upon the lands so to be leased for the purpose of rebuilding as aforesaid, or any part thereof, and to make use of the materials, and also liberty to lay out and appropriate any part of the lands which shall be thereby demised as or for a yard or garden, or for any other convenience, to be held, occupied or enjoyed with any such building, so that every such lease for the purpose of new building or rebuilding be made for any term or number of years not exceeding the term of *Ninety-nine* Years, and so that every such lease for the purpose of effectually repairing any buildings be made for any term or number of years not exceeding the term of *Sixty* Years, and so from time to time and in like manner to grant new leases for building or rebuilding the same premises, or any part thereof, for such terms and interests respectively as last aforesaid, and so that every lease to be made under this present Clause shall take effect in possession, or within *One-half* Year after the making thereof, and so that upon every such lease there be reserved and made payable during the continuance thereof, and to be incident to and go along with the reversion expectant on the same lease, the best and most beneficial rent that at the time of granting thereof (considering the nature of the case) can be reasonably obtained for the lands leased, except that if it shall be deemed expedient, a nominal rent or a less rent than the best and most beneficial rent may be reserved during so many of the first years of the term for which the lease shall be granted, as shall be requisite to complete the buildings agreed to be erected on the lands demised, or the repair or rebuilding of the erections or buildings standing upon the lands demised, and as is usual and reasonable in such cases, and with liberty for the person hereby empowered to grant such building leases as aforesaid to enter into any prior agreement with any person who shall be willing to build upon the said lands, or any part thereof, for erecting several houses or other buildings upon a large plot of land to be afterwards leased out in parcels at different rents, and to fix the rents upon some of the parcels exclusively of others, so that the best and most beneficial rents shall be reserved in the whole in manner aforesaid, and so that no rent to be fixed on any parcel of the lands exclusively of others shall exceed *One-sixth* of the improved yearly value of such parcel of land when built upon.

Provided

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Provided always, and be it Enacted, That no Building Lease to be granted under this Act shall be valid, unless the same shall contain a covenant on the part of the lessee for payment of the rent (if any) to be thereby reserved, and for keeping the buildings and premises comprised therein in repair, and a condition for re-entry on non-payment of the rent (if any) to be thereby reserved, nor unless the person to whom any such Building Lease shall be granted as aforesaid, shall execute a counterpart thereof.

3. Building Leases not to be binding unless they contain certain covenants.

Provided also, and be it Enacted, That notwithstanding any matter or thing hereinbefore contained, any lease which shall be made in pursuance of any agreement so to be entered into as aforesaid, for the granting of more than one lease, shall, if the terms hereinbefore contained shall appear on the face of such lease to have been complied with, be considered as valid in itself, without reference to any other lease to be granted under the same agreement, to the intent that the lessee in every such lease, his executors, administrators or assigns, shall not be under the necessity of seeing or proving that the other lease or leases granted or to be granted under the same agreement is or are granted according to the terms of such agreement and of this Act.

4. Building Leases not to be affected by invalidity of others granted under some agreement.

And be it Enacted, That from and after the *passing of this Act*, it shall be lawful for every Tenant for life in possession of any lands in Ireland, to demise, or lease and grant all and every or any of the mines, layers, veins, seams and strata of coal, freestone, lead, clay, sand, ironstone, and other metals, minerals or substances found and discovered, or which shall or may at any time hereafter be found or discovered in, under or upon the lands of which he shall be so tenant for life in possession, unto any person for any term or number of years not exceeding *Thirty-one* Years, to take effect in possession, or within *One* Year after the making of such lease, together with full and free liberty, license, power and authority to search, seek, dig, drive, win, work and make groves, shafts, drifts, trenches, sluices, way-gates, water-gates and water-courses, and to erect any furnace or furnaces, engines, mills or gins, and to use all other lawful ways and means as well for the finding, discovering, winning, working and getting the said coal, freestone, lead, clay, sand, ironstone and other minerals and substances from and out of the said mines and quarries, as for avoiding and carrying away water, foul-air or stench from forth and out of the same, and sufficient ground-room, heap-room and pit-room for the laying, placing and manufacturing of the coal, iron, lead, ironstone, rubbish and other substances that shall from time to time proceed from or be wrought, dug or gotten out of the same; and to grant such lessee full and sufficient way and passage to and for him and his agents, workmen and servants

5. Tenants for life in possession empowered to grant Leases of Mines.

vants from time to time during the continuance of the term of years to be by such demise, lease or grant created, to take, lead and carry away with horses, carts, wains, waggons and other carriages, all the said coal, freestone, lead, clay, sand, ironstone, minerals and other substances to be wrought, won and gotten forth and out of the said mines and quarries thereby to be demised or leased, or so to be opened or worked as aforesaid; and also full and free liberty, license, power and authority to erect, build and set up in any convenient place or places near any of the said mines and quarries so to be demised or leased, or so to be opened and worked as aforesaid, all such houses, hovels, lodges, sheds or other buildings as shall from time to time be needful or convenient for the standing, laying and placing of the workmen, workhouses, worth-gear and utensils to be used or employed in or about the working and carrying on of the works of the said mines and quarries respectively; and to dig and get up stone, sods, peat, clay or spar for the making, building or repairing of such houses or other buildings, and to do whatever else shall be needful or requisite for, in or about the making, obtaining, getting, washing, cleansing and smelting of coal, iron, ironstone and other minerals and substances from and out of the said mines and quarries, and for the manufacturing and carrying away the same; so as by every such demise, lease or grant there be reserved and made payable during the continuance of the term of years to be thereby created, the best and most improved rents, tolls, duties, royalties and reservations that can be reasonably had or gotten for the same; and so as every such demise, lease or grant be made without taking any fine or premium for the same; and so as in every such demise, lease or grant there be contained a condition for re-entry, or a power to make void and determine the same on non-payment of the rents, tolls, duties, royalties or reservations thereby to be reserved or made payable; and so as every lessee or grantee do execute a counterpart of the demise, lease or grant made to him, and do enter into such covenants and agreements for the working and managing of the said mines and works as the person making such leases or grants respectively shall judge expedient, and for rendering and paying the rents, tolls, duties, royalties and reservations thereby to be made payable.

6.
Mortgagor in possession may, under certain restrictions, execute the powers of leasing hereinbefore given.

And be it Enacted, That all or any of the powers of leasing hereinbefore contained shall and may be exercised by any Mortgagor in possession of any lands in Ireland, upon his giving calendar Months' previous notice in writing of his intention to grant such lease (which notice shall state the term of years proposed to be granted, and the rent proposed to be reserved by and the nature of the covenants to be inserted in such lease,) unto the Mortgagee, or if there shall be more than one Mortgagee, then unto both or all of such Mortgagees,

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Mortgagees, or if such Mortgagee or any of such Mortgagees shall be absent from the United Kingdom, then by leaving such notice at the last or most usual place or places of abode of the Mortgagee or Mortgagees so absent: Provided always, That any Mortgagee may, within the space of calendar Months next after the giving or leaving of such notice, apply by Petition to His Majesty's Court of Chancery in Ireland, praying that it may be referred to a Master of the said Court of Chancery to settle the terms upon which the proposed lease shall be granted; and it shall be referred to the Master accordingly; and in that case the Mortgagor shall not be at liberty to grant any lease under the powers hereinbefore contained, or any of them, except upon such terms as shall be directed by the Master; and the expense of the Mortgagee or Mortgagees attendant upon such Petition, and the reference to the Master as to the granting of such lease, when taxed and allowed by the said Master, shall be a lien on the mortgaged hereditaments, and be attended with the same interest as the mortgage bears, and be recoverable in like manner as the mortgage debt.

7.
Tenants for life in possession empowered, with the approbation of the Court of Chancery, to make exchange.

And be it Enacted, That from and after the *passing of this Act* it shall be lawful for any Tenant for life in possession of Lands in Ireland who shall be desirous that the Lands of which he shall be so Tenant for life in possession, or any part thereof, may be exchanged for other Lands in Ireland, to apply by Petition to His Majesty's Court of Chancery in Ireland, praying that it may be referred to a Master of the said Court of Chancery to inquire into and ascertain the propriety of such exchange; and such Petition shall, if the said Court so thinks fit, be referred to a Master accordingly, who shall make his report to the Court respecting the proposed exchange; and if the Court shall be satisfied that such proposed exchange is proper, and will be advantageous to the persons entitled in reversion or remainder, and shall order or direct the same to be carried into effect, then the same shall be carried into effect accordingly; and it shall be lawful for the said Court to make and give such orders and directions for that purpose, and for effecting the other purposes hereinafter mentioned in relation to such exchange, or any of such purposes as to the said Court shall seem necessary or expedient; and the Tenant for life shall have power by deed, to be approved of by a Master of the said Court, to convey and assure the fee simple or absolute and entire interest of the Lands so to be exchanged, in such manner as shall be necessary for giving full effect to the said exchange; and the Master shall settle the deed necessary for conveying and settling the Lands to be taken in exchange by the Tenant for life to, for and upon such and the like uses, trusts, intents and purposes, and in the like manner as the Lands given in exchange by the Tenant for life did previous to such exchange stand settled or limited to, or such of them as at the time of making such conveyance and settlement

ment shall be existing undetermined and capable of taking effect; and when any money shall be payable to the Tenant for life for equality of exchange, the money so to be received for equality of exchange shall be applied under the direction and with the approbation of the said Court, to be signified by order made in the matter of said Petition, in payment of the costs of and attendant on such Petition and the effecting the exchange, and all matters relating thereto, or so much of such costs as the said Court shall direct, and in the redemption or discharge of any debt or debts or other incumbrances, or such part thereof as the Court shall authorize to be paid affecting the Lands so given in exchange by the Tenant for life, or affecting other Lands standing settled therewith to the same or the like uses, intents or purposes; or where such money shall not be so applied, then the same shall be laid out and invested, under the like direction, and with the like approbation of the Court, in the purchase of Lands in Ireland, which shall be conveyed and settled to, for and upon such and the like uses, trusts, intents and purposes, and in the like manner as the Lands given in exchange by the Tenant for life did previous to such exchange stand settled or limited to or for or upon such of them as at the time of making such conveyance and settlement shall be existing undetermined and capable of taking effect; and in the mean time, and until such purchase shall be made, the said money shall be paid into the Bank of Ireland in the name and with the privity of the Accountant General of the said Court, and be invested by the Accountant General in his name in the purchase of Three Pounds per centum Consolidated, or Three Pounds per centum Reduced Bank Annuities, or Three Pounds Ten Shillings per centum Bank Annuities, and in the mean time and until the Bank Annuities shall be ordered by the said Court to be sold for the purposes aforesaid, the dividends and annual produce of the said Consolidated or Reduced or other Bank Annuities shall from time to time be paid by order of the said Court to the person who would for the time being have been entitled to the rents of the Lands so hereby directed to be purchased as aforesaid, in case such purchase and settlement were made; and upon any such exchange as aforesaid the Tenant for life shall have power, by deed, to be approved of by a Master of the said Court, to charge the Lands taken by such Tenant for life, on the exchange, with the payment as well of the costs of and attendant on the Petition, and the effecting the exchange, and all matters relating thereto, or so much of such costs as the said Court shall direct, as also of any money which shall be payable by the Tenant for life for equality of exchange, together with interest for the money so charged at any rate not exceeding *Six* Pounds per centum per annum, and to demise, convey, or otherwise assure the same Lands unto the person who shall advance such money by way of mortgage for securing the payment of the same and the interest thereof, in such manner in all respects as the Master shall approve of; but no person becoming entitled to the possession or receipt of the rents of the lands so charged after the determination of the said life estate, or any other preceding partial or qualified estate or interest therein, shall be liable to pay any further or larger arrear of interest on the money so charged than for *Twelve* calendar Months next preceding the time when the title to such possession or receipt of rents shall have commenced; and if the Tenant for life shall himself choose to advance the money so payable for costs and for equality of exchange as aforesaid, or any part thereof respectively, then he shall have a lien on the inheritance for the repayment thereof, with interest for the same at the rate of *Six* Pounds per centum per annum, but he shall have no claim for interest accruing during his life, and shall be bound as between him and the persons in remainder to keep down the whole of the interest accruing during his life, if the money shall be advanced by another person.

8.
Tenants for life or for any greater estate in possession empowered to make partition.

And be it Enacted, That from and after the *passing of this Act* it shall be lawful for any person being Tenant for life or for any greater estate in possession of an undivided share of lands in Ireland, and also for the guardian of any infant, and the committee of any lunatic or idiot, which infant, lunatic or idiot shall be Tenant for life or for any greater estate in possession of an undivided share of lands in Ireland, and also for all trustees and feoffees in trust for charitable or other purposes, who shall be seised or interested in possession of or in an undivided share of lands in Ireland, to apply by Petition to the said Court of Chancery in Ireland, praying that it may be referred to a Master of the said Court to inquire and ascertain whether it will be expedient that partition shall be made of the lands of or in an undivided share whereof the person so applying by Petition shall be seised or interested; and such Petition shall, if the said Court shall so think fit, be referred to a Master, who shall make his report accordingly; and if the said Court shall be satisfied that a partition is proper and will be advantageous to all persons interested, and shall order or direct a partition to be made, then the same shall be carried into effect accordingly; and it shall be lawful for the said Court to make and give such orders and directions for that purpose, and for effecting the other purposes hereinafter mentioned in relation to such partition, or any of such purposes as to the said Court shall seem necessary or expedient, and especially to order and direct any person whom such Court may think proper to appoint for the purpose, to execute any deeds or instruments, or do any other acts whatsoever in the place and stead of any person who or whose place of residence may be unknown, or who may not be resident in Ireland, or whose personal execution of such deeds or instruments, or doing of such other acts, cannot for any other reason be obtained; and every partition which shall be made, and all deeds and instruments and other acts which shall be executed and done in relation thereto by any Tenant for life or other person having a partial or qualified estate or interest only, or by the guardian of any infant, or by the committee of any lunatic or idiot, or by any other person whomsoever under the orders or directions of the said Court, shall be binding upon all persons seised or interested of or in the lands of which partition shall be so made, or of or in any undivided shares thereof, and shall be effectual to all intents and purposes whatsoever; and the divided share of lands which upon any such partition shall be allotted to each person, shall be conveyed and settled by deeds, to be approved of by a Master of the said Court, to, for and upon such and the like uses, trusts, intents and purposes, and in the like manner as the undivided share in lieu whereof such divided share shall have been allotted did previous to such partition stand settled or limited to, for or upon, or such of them as at the time of making such conveyance or settlement shall be existing undetermined and capable of taking effect; and when any money shall be payable by way of equality of partition to the owners of any divided share of lands allotted on any such partition, and the person entitled in possession to such divided share shall have a partial or qualified estate or interest only therein, or such owner or any of such owners shall be under any legal disability, such money shall be applied under the direction and with the approbation of the said Court, to be signified by order made in the matter of the said Petition, in the like manner as the monies to be raised by way of equality of exchange are hereby directed to be applied under the direction of the said Court; and it shall be lawful for any person having a partial or qualified estate or interest only in any divided share of lands allotted on any such partition, or being under any legal disability, or having such partial or qualified estate or interest only, and being also under any legal disability, by deed, to be approved of by a Master of the said Court, to charge such divided share with the payment as well of the costs of and attendant on the effecting the partition, and all matters relating thereto, or so much of the said costs as the said Court shall direct, as also of any money which shall be payable by or in respect of the divided share allotted to such person on the partition, together with interest for the money so charged at any rate not exceeding *Six* Pounds per centum per annum, and to demise, convey or otherwise assure such divided share unto the person who shall advance such money by way of mortgage for securing the payment of the same and the interest thereof, in such manner in all respects as the Master shall approve of; but no person becoming entitled to the possession or receipt of the rents of the divided share so charged after the determination of any preceding partial or qualified estate or interest therein, shall be liable to pay any further or larger arrear of interest on the money so charged than for *Twelve* calendar Months next preceding the time when the title to such possession or receipt of rents shall have commenced; and if any person having a partial or qualified estate or interest only in any such divided share, shall himself choose to advance the money so payable for costs and for equality of partition as aforesaid, or any part thereof respectively, then he shall have a lien on the inheritance for the repayment thereof, with interest for the same at the rate of *Six* Pounds per centum per annum; but he shall have no claim for interest accruing during the continuance of such his partial or qualified estate or interest, and shall be bound as between him and the persons entitled in remainder to keep down the whole of the interest accruing during the continuance of such his partial or qualified estate, or interest, if the money shall be advanced by another person.

9.
Persons paying money for equality of exchange or partition, or advancing money by mortgage, to be discharged from all liability to see to its application.

Provided always, and be it Enacted, That every person who shall pay any money by way of equality of exchange or partition, or shall advance any money by way of mortgage under the provisions hereinbefore contained, or any of them, shall, after having paid his money pursuant to the order of the said Court, be wholly exonerated and discharged from all liability to see to the application of such money.

10.
Copy of Petition to be served on Parties interested.

And be it Enacted, That a copy of every Petition which under the provisions of this Act shall be presented to the said Court of Chancery by a Tenant for life, shall be served *Twenty-one* Days at the least before the hearing thereof upon the person or persons entitled to the first vested estate of inheritance in remainder after the estate of the Tenant for life, and every intervening Tenant for life and other person having an intervening partial estate in the lands proposed to be exchanged, or the undivided share of lands of which partition is proposed to be made under this Act; but if any of such persons shall be of unsound mind, or under the age of *Twenty-one* Years, or under any other legal disability, or beyond the limits of the United Kingdom of Great Britain and Ireland, then a copy of such Petition shall be served, on his, her or their behalf, upon such person or persons respectively as the said Court of Chancery shall appoint for that purpose, and every person upon whom a copy of any such Petition shall be so served shall be at liberty to attend before the Master to whom such Petition shall be referred, and to consent or object to the purpose of such Petition.

11.
Notice of intended exchange or partition to be given to Incumbrances.

And be it Enacted, That if any lands proposed to be exchanged, or any undivided share of Lands of which partition is proposed to be made under this Act, shall be subject to any mortgage, charge, lien or other specific incumbrance, then the Tenant for life or other person by whom such exchange or partition is proposed to be made, shall, previously to presenting such Petition as aforesaid, give notice in writing of his intention to present the same to the person entitled to the benefit of such mortgage, charge, lien, or other specific incumbrance, unless such person shall be under a legal disability, or shall be out of the United Kingdom; in both or either of which cases the Tenant for life or other person may present his Petition without having given such notice; and the Court to which the application is made shall have power to direct how and in what manner notice of the application shall be served, in lieu of such notice of the intention to present the said Petition being given as aforesaid.

12.
Definition of Terms in this Act.

And be it Enacted, That in the construction of this Act the term "Tenant for life" shall extend to any person entitled either legally or equitably to an estate or interest in any lands for the term of his own life, or for any term of years determinable on his life, including all corporations aggregate and sole, and also all Bishops, Parsons and other Ecclesiastical Persons as to lands held by them in those respective characters, but so that, as regards all Parsons and other Ecclesiastical Persons (except Bishops), the consent of their patron and ordinary be obtained to the exercise of the powers of this Act; and the word "Lands" shall extend to manors, advowsons, rectories, messuages, lands, tenements, tithes, rents and hereditaments of any tenure (including those held for terms of years), and whether corporeal or incorporeal, and any undivided share thereof; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things; and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

13.
Act not to enable a Lessee to affect the interest of his Landlord.

Provided always, and be it Enacted, That the provisions of this Act shall not enable any Lessee to pass or in anywise affect the interest of his Landlord in any lands held under or by virtue of a lease; but nevertheless any Lessee, being such Tenant for life in possession as hereinbefore mentioned, shall and may exercise all or any of the powers of this Act (except the powers of exchanging and partition), so as to bind or pass the interest of every person entitled or interested in remainder after the determination of the estate or interest of such Tenant for life to or in the term, estate or interest granted or created by the lease under or by virtue whereof the lands are so holden.

14.
Act not to confer powers withheld by instrument creating estate of Tenant for life.

Provided also, and be it Enacted, That this Act shall not enable any Tenant for life to exercise any of the powers hereby given, from the exercise of which he shall be expressly restrained by the instrument by which his life estate was created.

15.
Act may be amended.

And be it Enacted, That this Act may be amended, altered or repealed by any Act or Acts during the present Session of Parliament.

Leases and Exchanges.

(Ireland.)

A

BILL

To enable Tenants for Life and Mortgagors in possession of Lands in Ireland to grant Leases, and to enable Tenants for Life of Lands in Ireland to make Exchange, and for giving a summary Remedy for Partition in all cases as to Lands in Ireland.

(*Prepared and brought in by*
Mr. Lynch and Mr. Wyse.)

Ordered, by The House of Commons, *to be Printed,*
24 *April* 1837.

236.

437

(Ireland.)

A
BILL

[AS AMENDED BY THE COMMITTEE]

To enable Tenants for Life and Mortgagors in possession of Lands in *Ireland* to grant Leases, and to enable Tenants for Life of Lands in *Ireland* to make Exchange, and for giving a summary Remedy for Partition in all cases as to Lands in *Ireland*.

[N. B.—*The Clause marked* (A.) *was added by the Committee.*]

Preamble:

BE it Enacted by The KING's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the passing of this Act, it shall be lawful for every Tenant for life in possession of any Lands in Ireland to demise or lease the Lands of which he shall be so Tenant for life in possession to any person for any term or number of years not exceeding Thirty-one Years, to take effect in possession, or within One-half Year after the making of such lease, so as upon every such lease there be reserved and made payable during the continuance thereof, to be incident to and go along with the reversion expectant thereon, the best and most improved yearly rent that can be reasonably obtained for the same, without taking any sum or sums of money, or other thing by way of premium, for or in respect of the same lease, and so as the lessee to be named in any such lease be not made dispunishable for waste by any express words therein contained, and so as in every such lease there be contained a condition for re-entry on non-payment of the rent to be thereby reserved, and so as every lessee do execute a counterpart of his lease, and do thereby covenant for payment of the rent to be thereby reserved.

1. Tenants for life in possession empowered to grant Leases for Twenty-one Years at the best Rent.

And

2.
Tenants for life in possession empowered to grant repairing and building Leases.

And be it Enacted, That from and after the passing of this Act it shall be lawful for every Tenant for life in possession of any lands in *Ireland* to demise or lease the lands of which he shall be so Tenant for life in possession to any person who shall be willing to take the same for the purpose of effectually repairing or rebuilding any erections or buildings standing upon the lands so to be leased, or any part thereof, or for the purpose of erecting new buildings upon such lands, or any part thereof, with liberty to take or pull down any erection or building then standing or being upon the lands so to be leased for the purpose of rebuilding as aforesaid, or any part thereof, and to make use of the materials, and also liberty to lay out and appropriate any part of the lands which shall be thereby demised as or for a yard or garden, or for any other convenience, to be held, occupied or enjoyed with any such building, so that every such lease for the purpose of new building or rebuilding be made for any term or number of years not exceeding the term of Ninety-nine Years, and so that every such lease for the purpose of effectually repairing any buildings be made for any term or number of years not exceeding the term of Sixty Years, and so from time to time and in like manner to grant new leases for building or rebuilding the same premises, or any part thereof, for such terms and interests respectively as last aforesaid, and so that every lease to be made under this present Clause shall take effect in possession, or within One-half Year after the making thereof, and so that upon every such lease there be reserved and made payable during the continuance thereof, and to be incident to and go along with the reversion expectant on the same lease, the best and most beneficial rent that at the time of granting thereof (considering the nature of the case) can be reasonably obtained for the lands leased, except that if it shall be deemed expedient, a nominal rent or a less rent than the best and most beneficial rent may be reserved during so many of the first years of the term for which the lease shall be granted, as shall be requisite to complete the buildings agreed to be erected on the lands demised, or the repair or rebuilding of the erections or buildings standing upon the lands demised, and as is usual and reasonable in such cases, and with liberty for the person hereby empowered to grant such building leases as aforesaid to enter into any prior agreement with any person who shall be willing to build upon the said lands, or any part thereof, for erecting several houses or other buildings upon a large plot of land to be afterwards leased out in parcels at different rents, and to fix the rents upon some of the parcels exclusively of others, so that the best and most beneficial rents shall be reserved in the whole in manner aforesaid, and so that no rent to be fixed on any parcel of the lands exclusively of others shall exceed One-sixth of the improved yearly value of such parcel of land when built upon: Provided always, That not more than Ten Acres shall be granted to any one person, either in his own name or to any other person or persons in trust for him; and that every such

But not more than Ten Acres to one person conditionally that such lease shall contain a condition that the lease shall be void, and the same is hereby declared void, if the buildings stipulated for at the time such lease is executed, be not completed in the space of Ten Years from the making of such lease, and which buildings are hereby directed to be specified in such lease.

Buildings, to be specified in Lease, are completed in Ten Years.

3. Building Leases not to be binding unless they contain certain covenants.

Provided always, and be it Enacted, That no Building Lease to be granted under this Act shall be valid, unless the same shall contain a covenant on the part of the lessee for payment of the rent (if any) to be thereby reserved, and for keeping the buildings and premises comprised therein in repair, and a condition for re-entry on non-payment of the rent (if any) to be thereby reserved, nor unless the person to whom any such Building Lease shall be granted as aforesaid, shall execute a counterpart thereof.

4. Building Leases not to be affected by invalidity of others granted under some agreement.

Provided also, and be it Enacted, That notwithstanding any matter or thing hereinbefore contained, any lease which shall be made in pursuance of any agreement so to be entered into as aforesaid, for the granting of more than one lease, shall, if the terms hereinbefore contained shall appear on the face of such lease to have been complied with, be considered as valid in itself, without reference to any other lease to be granted under the same agreement, to the intent that the lessee in every such lease, his executors, administrators or assigns, shall not be under the necessity of seeing or proving that the other lease or leases granted or to be granted under the same agreement is or are granted according to the terms of such agreement and of this Act.

5. Tenants for life in possession empowered to grant Leases of Mines.

And be it Enacted, That from and after the passing of this Act, it shall be lawful for every Tenant for life in possession of any lands in Ireland, to demise, or lease and grant all and every or any of the mines, layers, veins, seams and strata of coal, freestone, lead, clay, sand, ironstone, and other metals, minerals or substances found and discovered, or which shall or may at any time hereafter be found or discovered in, under or upon the lands of which he shall be so tenant for life in possession, unto any person for any term or number of years not exceeding Sixty-one Years, to take effect in possession, or within One Year after the making of such lease, together with full and free liberty, license, power and authority to search, seek, dig, drive, win, work and make groves, shafts, drifts, trenches, sluices, way-gates, water-gates and water-courses, and to erect any furnace or furnaces, engines, mills or gins, and to use all other lawful ways and means as well for the finding, discovering, winning, working and getting the said coal, freestone, lead, clay, sand, ironstone and other minerals and substances from and out of the said mines and quarries, as for avoiding and carrying away water, foul-air or stench from forth and out of the same, and sufficient ground-room, heap-room and pit-room for the laying, placing and manufacturing of the coal, iron, lead, ironstone, rubbish and other substances that shall from time to time proceed from or be wrought, dug or gotten out of the same; and to grant such lessee full and sufficient way and passage to and for him and his agents, workmen and servants from time to time during the continuance of the term of years to be by such demise, lease or grant created, to take, lead and carry away with horses, carts, wains, waggons and other carriages, all the said coal, freestone, lead, clay, sand, ironstone, minerals and other substances to be wrought, won and gotten forth and out of the said mines and quarries thereby to be demised or leased, or so to be opened or worked as aforesaid; and also full and free liberty, license, power and authority to erect, build and set up in any convenient place or places near any of the said mines and quarries so to be demised or leased, or so to be opened and worked as aforesaid, all such houses, hovels, lodges, sheds or other buildings as shall from time to time be needful or convenient for the standing, laying and placing of the workmen, workhouses, worth-gear and utensils to be used or employed in or about the working and carrying on of the works of the said mines and quarries respectively; and to dig and get up stone, sods, peat, clay or spar for the making, building or repairing of such houses or other buildings, and to do whatever else shall be needful or requisite for, in or about the making, obtaining, getting, washing, cleansing or smelting of coal, iron, ironstone and other minerals and substances from and out of the said mines and quarries, and for the manufacturing and carrying away the same; so as by every such demise, lease or grant there be reserved and made payable during the continuance of the term of years to be thereby created, the best and most improved rents, tolls, duties, royalties and reservations that can be reasonably had or gotten for the same; and so as every such demise, lease or grant be made without taking any fine or premium for the same; and so as in every such demise, lease or grant there be contained a condition for re-entry, or a power to make void and determine the same on non-payment of the rents, tolls, duties, royalties or reservations thereby to be reserved or made payable; and so as every lessee or grantee do execute a counterpart of the demise, lease or grant made to him, and do enter into such covenants and agreements for the working and managing of the said mines and works as the person making such leases or grants respectively shall judge expedient, and for rendering and paying the rents, tolls, duties, royalties and reservations thereby to be made payable.

6.
Mortgagor in possession may, under certain restrictions,

And be it Enacted, That all or any of the powers of leasing hereinbefore contained shall and may be exercised by any Mortgagor in possession of any lands in Ireland, upon his giving Three calendar Months' execute the powers of leasing hereinbefore given.

Months' previous notice in writing of his intention to grant such lease (which notice shall state the term of years proposed to be granted, and the rent proposed to be reserved by and the nature of the covenants to be inserted in such lease,) unto the Mortgagee, or if there shall be more than one Mortgagee, then unto both or all of such Mortgagees, or if such Mortgagee or any of such Mortgagees shall be absent from the United Kingdom, then by leaving such notice at the last or most usual place or places of abode of the Mortgagee or Mortgagees so absent: Provided always, That any Mortgagee may, within the space of Three calendar Months next after the giving or leaving of such notice, apply by Petition to His Majesty's Court of Chancery in *Ireland*, praying that it may be referred to a Master of the said Court of Chancery to settle the terms upon which the proposed lease shall be granted; and it shall be referred to the Master accordingly; and in that case the Mortgagor shall not be at liberty to grant any lease under the powers hereinbefore contained, or any of them, except upon such terms as shall be directed by the Master; and the expense of the Mortgagee or Mortgagees attendant upon such Petition, and the reference to the Master as to the granting of such lease, when taxed and allowed by the said Master, shall be a lien on the mortgaged hereditaments, and be attended with the same interest as the mortgage bears, and be recoverable in like manner as the mortgage debt: Provided also, That the powers of leasing hereby given shall not extend to or be construed to extend to any manor mansion or family dwelling-house, or the offices, gardens, orchards or inclosures belonging, annexed or adjacent to such manor, mansion or family dwelling-house; and that no lease of lands shall be granted under the authority of this Act for building purposes within Five hundred yards of such manor, mansion or family dwelling-house.

Mansion or family Dwelling-house not to be leased.

7.

Tenants for life in possession empowered, with the approbation of the Court of Chancery, to make exchange.

And be it Enacted, That from and after the passing of this Act it shall be lawful for any Tenant for life in possession of Lands in *Ireland* who shall be desirous that the Lands of which he shall be so Tenant for life in possession, or any part thereof, may be exchanged for other Lands in *Ireland*, to apply by Petition to His Majesty's Court of Chancery in *Ireland*, praying that it may be referred to a Master of the said Court of Chancery to inquire into and ascertain the propriety of such exchange; and such Petition shall, if the said Court so thinks fit, be referred to a Master accordingly, who shall make his report to the Court respecting the proposed exchange; and if the Court shall be satisfied that such proposed exchange is proper, and will be advantageous to the persons entitled in reversion or remainder, and shall order or direct the same to be carried into effect, then the same shall be carried into effect accordingly; and it shall be lawful for the said Court to make and give such orders and directions for that purpose, and for effecting the other purposes hereinafter mentioned in relation to such exchange, or any of such purposes as to the said Court shall seem necessary or expedient ; and the Tenant for life shall have power by deed, to be approved of by a Master of the said Court, to convey and assure the fee simple or absolute and entire interest of the Lands so to be exchanged, in such manner as shall be necessary for giving full effect to the said exchange ; and the Master shall settle the deed necessary for conveying and settling the Lands to be taken in exchange by the Tenant for life to, for and upon such and the like uses, trusts, intents and purposes, and in the like manner as the Lands given in exchange by the Tenant for life did previous to such exchange stand settled or limited to, or such of them as at the time of making such conveyance and settlement shall be existing undetermined and capable of taking effect ; and when any money shall be payable to the Tenant for life for equality of exchange, the money so to be received for equality of exchange shall be applied under the direction and with the approbation of the said Court, to be signified by order made in the matter of said Petition, in payment of the costs of and attendant on such Petition and the effecting the exchange, and all matters relating thereto, or so much of such costs as the said Court shall direct, and in the redemption or discharge of any debt or debts or other incumbrances, or such part thereof as the Court shall authorize to be paid affecting the Lands so given in exchange by the Tenant for life, or affecting other Lands standing settled therewith to the same or the like uses, intents or purposes ; or where such money shall not be so applied, then the same shall be laid out and invested, under the like direction, and with the like approbation of the Court, in the purchase of Lands in Ireland, which shall be conveyed and settled to, for and upon such and the like uses, trusts, intents and purposes, and in the like manner as the Lands given in exchange by the Tenant for life did previous to such exchange stand settled or limited to or for or upon such of them as at the time of making such conveyance and settlement shall be existing undetermined and capable of taking effect ; and in the mean time, and until such purchase shall be made, the said money shall be paid into the Bank of *Ireland* in the name and with the privity of the Accountant General of the said Court, and be invested by the Accountant General in his name in the purchase of Three Pounds per centum Consolidated, or Three Pounds per centum Reduced Bank Annuities, or Three Pounds Ten Shillings per centum Bank Annuities, and in the mean time and until the Bank Annuities shall be ordered by the said Court to be sold for the purposes aforesaid, the dividends and annual produce of the said Consolidated or Reduced or other Bank Annuities shall from time to time be paid by order of the said Court to the person who would for the time being have been entitled to the rents of the Lands so hereby directed to be purchased as aforesaid, in case such purchase and settlement were made; and upon any such exchange as aforesaid the Tenant for life shall have power, by deed, to be approved of by a Master of the said Court, to charge the Lands taken by such Tenant for life, on the exchange, with the payment as well of the costs of and attendant on the Petition, and the effecting the exchange, and all matters relating thereto, or so much of such costs as the said Court shall direct, as also of any money which shall be payable by the Tenant for life for equality of exchange, together with interest for the money so charged at any rate not exceeding Six Pounds per centum per annum, and to demise, convey, or otherwise assure the same Lands unto the person who shall advance such money by way of mortgage for securing the payment of the same and the interest thereof, in such manner in all respects as the Master shall approve of; but no person becoming entitled to the possession or receipt of the rents of the lands so charged after the determination of the said life estate, or any other preceding partial or qualified estate or interest therein, shall be liable to pay any further or larger arrear of interest on the money so charged than for Twelve calendar Months next preceding the time when the title to such possession or receipt of rents shall have commenced; and if the Tenant for life shall himself choose to advance the money so payable for costs and for equality of exchange as aforesaid, or any part thereof respectively, then he shall have a lien on the inheritance for the repayment thereof, with interest for the same at the rate of Six Pounds per centum per annum, but he shall have no claim for interest accruing during his life, and shall be bound as between him and the persons in remainder to keep down the whole of the interest accruing during his life, if the money shall be advanced by another person.

8.
Tenants for life or for any greater estate in possession empowered to make partition.

And be it Enacted, That from and after the passing of this Act it shall be lawful for any person being Tenant for life or for any greater estate in possession of an undivided share of lands in *Ireland*, and also for all trustees and feoffees in trust for charitable or other purposes, who shall be seised or interested in possession of or in an undivided share of lands in *Ireland*, to apply by Petition to the said Court of Chancery in *Ireland*, for a partition to be made of the lands of or in an undivided share whereof the person so applying by Petition shall be seised or interested; and such Petition shall, if the said Court shall so think fit, be referred to a Master, who shall make his report accordingly; and if the said Court shall be satisfied that a partition is proper and will be advantageous to all persons interested, and shall order or direct a partition to be made, then the same shall be carried into effect accordingly; and it shall be lawful for the said Court to make and give such orders and directions for that purpose, and for effecting the other purposes hereinafter mentioned in relation to such partition, or any of such purposes as to the said Court shall seem necessary or expedient, and especially to order and direct any person whom such Court may think proper to appoint for the purpose, to execute any deeds or instruments, or do any other acts whatsoever in the place and stead of any person who or whose place of residence may be unknown, or who may not be resident in *Ireland*, or whose personal execution of such deeds or instruments, or doing of such other acts, cannot for any other reason be obtained; and every partition which shall be made, and all deeds and instruments and other acts which shall be executed and done in relation thereto by any Tenant for life or other person having a partial or qualified estate or interest only, or by the guardian of any infant, or by the committee of any lunatic or idiot, or by any other person whomsoever under the orders or directions of the said Court, shall be binding upon all persons seised or interested of or in the lands of which partition shall be so made, or of or in any undivided shares thereof, and shall be effectual to all intents and purposes whatsoever; and the divided share of lands which upon any such partition shall be allotted to each person, shall be conveyed and settled by deeds, to be approved of by a Master of the said Court, to, for and upon such and the like uses, trusts, intents and purposes, and in the like manner as the undivided share in lieu whereof such divided share shall have been allotted did previous to such partition stand settled or limited to, for or upon, or such of them as at the time of making such conveyance or settlement shall be existing undetermined and capable of taking effect; and when any money shall be payable by way of equality of partition to the owners of any divided share of lands allotted on any such partition, and the person entitled in possession to such divided share shall have a partial or qualified estate or interest only therein, or such owner or any of such owners shall be under any legal disability, such money shall be applied under the direction and with the approbation of the said Court, to be signified by order made in the matter of the said Petition, in the like manner as the monies to be raised by way of equality of exchange are hereby directed to be applied under the direction of the said Court; and it shall be lawful for any person having a partial or qualified estate or interest only in any divided share of lands allotted on any such partition, or being under any legal disability, or having such partial or qualified estate or interest only, and being also under any legal disability, by deed, to be approved of by a Master of the said Court, to charge such divided share with the payment as well of the costs of and attendant on the effecting the partition, and all matters relating thereto, or so much of the said costs as the said Court shall direct, as also of any money which shall be payable by or in respect of the divided share allotted to such person on the partition, together with interest for the money so charged at any rate not exceeding Six Pounds per centum per annum, and to demise, convey or otherwise assure such divided share unto the person who shall advance such money by way of mortgage for securing the payment of the same and the interest thereof, in such manner in all respects as the Master shall approve of; but no person becoming entitled to the possession or receipt of the rents of the divided share so charged after the determination of any preceding partial or qualified estate or interest therein, shall be liable to pay any further or larger arrear of interest on the money so charged than for Twelve calendar Months next preceding the time when the title to such possession or receipt of rents shall have commenced; and if any person having a partial or qualified estate or interest only in any such divided share, shall himself choose to advance the money so payable for costs and for equality of partition as aforesaid, or any part thereof respectively, then he shall have a lien on the inheritance for the repayment thereof, with interest for the same at the rate of Six Pounds per centum per annum; but he shall have no claim for interest accruing during the continuance of such his partial or qualified estate or interest, and shall be bound as between him and the persons entitled in remainder to keep down the whole of the interest accruing during the continuance of such his partial or qualified estate, or interest, if the money shall be advanced by another person.

9.
Persons paying money for equality of exchange or partition, or advancing money by mortgage, to be discharged from all liability to see to its application.

Provided always, and be it Enacted, That every person who shall pay any money by way of equality of exchange or partition, or shall advance any money by way of mortgage under the provisions hereinbefore contained, or any of them, shall, after having paid his money pursuant to the order of the said Court, be wholly exonerated and discharged from all liability to see to the application of such money.

10.
Copy of Petition to be served on Parties interested.

And be it Enacted, That a copy of every Petition which under the provisions of this Act shall be presented to the said Court of Chancery by a Tenant for life, shall be served Twenty-one Days at the least before the hearing thereof upon the person or persons entitled to the first vested estate of inheritance in remainder after the estate of the Tenant for life, and every intervening Tenant for life and other person having an intervening partial estate in the lands proposed to be exchanged, or the undivided share of lands of which partition is proposed to be made under this Act; and a copy of every Petition, which under the provisions of this Act shall be presented to the said Court of Chancery, praying an inquiry as to the expediency of a partition, shall be also served on the person or persons other than the petitioner who shall be entitled in possession to any undivided share of the Lands, whereof partition is proposed to be made: Provided always, That if any person, upon whom a copy of any Petition is by this Clause required to be served, shall be of unsound mind, or under the age of Twenty-one Years, or under any other legal disability, or beyond the limits of the United Kingdom of *Great Britain* and *Ireland*, then a copy of such Petition shall be served, on his, her or their behalf, upon such person or persons respectively as the said Court of Chancery shall appoint for that purpose, and every person upon whom a copy of any such Petition shall be served under this Clause, and any other person interested in the said Lands shall be at liberty to attend before the Master to whom such Petition shall be referred, and to consent or object to the purpose of such Petition; provided that Advertisements shall also be inserted in the *Dublin* Gazette, and in such one or more newspaper or newspapers published in *Ireland*, as the said Court of Chancery shall direct, stating the fact of such Petition having been presented.

11.
Notice of intended exchange or partition to be given to Incumbrances.

And be it Enacted, That if any lands proposed to be exchanged, or any undivided share of Lands of which partition is proposed to be made under this Act, shall be subject to any mortgage, charge, lien or other specific incumbrance, then the Tenant for life or other person by whom such exchange or partition is proposed to be made, shall, previously to presenting such Petition as aforesaid, give notice in writing of his intention to present the same to the person entitled to the benefit of such mortgage, charge, lien, or other specific incumbrance, unless such persons hall be under a legal disability, or shall be out of the United Kingdom; in both or either of which cases the Tenant for life or other person may present his Petition without having given such notice; and the Court to which the application is made shall have power to direct how and in what manner notice of the application shall be served, in lieu of such notice of the intention to present the said Petition being given as aforesaid.

12.
Definition of Terms in this Act.

And be it Enacted, That in the construction of this Act the term "Tenant for life" shall extend to any person entitled either legally or equitably to an estate or interest in any lands for the term of his own life, or for any term of years determinable on his life, including all corporations aggregate and sole, and also all Bishops, Parsons and other Ecclesiastical Persons as to lands held by them in those respective characters, but so that, as regards all Parsons and other Ecclesiastical Persons (except Bishops and Deans and Chapters), the consent of their patron and ordinary be obtained to the exercise of the powers of this Act, and so as not to prejudice in any way the powers of leasing now possessed by Tenants for life, Bishops, Parsons and other Ecclesiastical persons; and the word "Lands" shall extend to manors, advowsons, rectories, messuages, lands, tenements, tithes, rents and hereditaments of any tenure (including those held for terms of years), and whether corporeal or incorporeal, and any undivided share thereof;

and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things; and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

13.
Act not to enable a Lessee to affect the interest of his Landlord.

Provided always, and be it Enacted, That the provisions of this Act shall not enable any Lessee to pass or in anywise affect the interest of his Landlord in any lands held under or by virtue of a lease; but nevertheless any Lessee, being such Tenant for life in possession as hereinbefore mentioned, shall and may exercise all or any of the powers of this Act (except the power of exchanging) so as to bind or pass the interest of every person entitled or interested in remainder after the determination of the estate or interest of such Tenant for life to or in the term, estate or interest granted or created by the lease under or by virtue whereof the lands are so holden.

14.
Act not to confer powers withheld by instrument creating estate of Tenant for life.

Provided also, and be it Enacted, That this Act shall not enable any Tenant for life to exercise any of the powers hereby given, from the exercise of which he shall be expressly restrained by the instrument by which his life estate was created.

15.
CLAUSE (A.)
As to existing Suits of Action, for Partition.

And be it Enacted, That all suits and actions now depending in any of His Majesty's Courts of Law or Equity in *Dublin*, for a partition of Lands, shall cease, and be no longer proceeded in, if the Judge or Judges of such Courts shall think proper so to order; and that such Judge or Judges shall dispose of the costs of such actions or suits upon the matter of the Petition for a partition, to be presented under this Act or otherwise, as to such Judge or Judges, shall seem meet.

16.
Act may be amended.

And be it Enacted, That this Act may be amended, altered or repealed by any Act or Acts during the present Session of Parliament.

Leases and Exchanges.

(Ireland.)

A

B I L L

[AS AMENDED BY THE COMMITTEE]

To enable Tenants for Life and Mortgagors in possession of Lands in Ireland to grant Leases, and to enable Tenants for Life of Lands in Ireland to make Exchange, and for giving a summary Remedy for Partition in all cases as to Lands in Ireland.

(*Prepared and brought in by*
Mr. Lynch and Mr. Wyse.)

Ordered, by The House of Commons, *to be Printed,*
2 *June* 1837.

360.

449

(Ireland.)

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BILL

[AS AMENDED ON RE-COMMITMENT]

To enable Tenants for Life and Mortgagors in possession of Lands in *Ireland* to grant Leases, and to enable Tenants for Life of Lands in *Ireland* to make Exchange, and for giving a summary Remedy for Partition in all cases as to Lands in *Ireland.*

[N. B.—*The Clause marked* (A.) *was added by the Committee*; *and the Clauses marked* (B.) *and* (C.) *were added on Re-commitment.*]

Preamble.

BE it Enacted by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the passing of this Act, it shall be lawful for every Tenant for life in possession of any Lands in Ireland to demise or lease the Lands of which he shall be so Tenant for life in possession to any person for any term or number of years not exceeding Thirty-one Years, to take effect in possession, or within One-half Year after the making of such lease, so as upon every such lease there be reserved and made payable during the continuance thereof, to be incident to and go along with the reversion expectant thereon, the best and most improved yearly rent that can be reasonably obtained for the same, without taking any sum or sums of money, or other thing by way of premium, for or in respect of the same lease, and so as the lessee to be named in any such lease be not made dispunishable for waste by any express words therein contained, and so as in every such lease there be contained a condition for re-entry on non-payment of the rent to be thereby reserved, and so as every lessee do execute a counterpart of his lease, and do thereby covenant for payment of the rent to be thereby reserved; and that he will not assign or sub-let the premises leased or any part thereof without the previous consent in writing of the lessor.

1.
Tenants for life in possession empowered to grant Leases for Twenty-one Years at the best Rent.

2\.
Tenants for life in possession empowered to grant repairing and building Leases.

And be it Enacted, That from and after the passing of this Act it shall be lawful for every Tenant for life in possession of any lands in *Ireland* to demise or lease the lands of which he shall be so Tenant for life in possession to any person who shall be willing to take the same for the purpose of effectually repairing or rebuilding any erections or buildings standing upon the lands so to be leased, or any part thereof, or for the purpose of erecting new buildings upon such lands, or any part thereof, with liberty to take or pull down any erection or building then standing or being upon the lands so to be leased for the purpose of rebuilding as aforesaid, or any part thereof, and to make use of the materials, and also liberty to lay out and appropriate any part of the lands which shall be thereby demised as or for a yard or garden, or for any other convenience, to be held, occupied or enjoyed with any such building, so that every such lease for the purpose of new building or rebuilding be made for any term or number of years not exceeding the term of Ninety-nine Years, and so that every such lease for the purpose of effectually repairing any buildings be made for any term or number of years not exceeding the term of Sixty Years, and so from time to time and in like manner to grant new leases for building or rebuilding the same premises, or any part thereof, for such terms and interests respectively as last aforesaid, and so that every lease to be made under this present Clause shall take effect in possession, or within One-half Year after the making thereof, and so that upon every such lease there be reserved and made payable during the continuance thereof, and to be incident to and go along with the reversion expectant on the same lease, the best and most beneficial rent that at the time of granting thereof (considering the nature of the case) can be reasonably obtained for the lands leased, without taking any fine or premium for the same, except that if it shall be deemed expedient, a nominal rent may be reserved during so many of the first years of the term for which the lease shall be granted, as shall be requisite to complete the buildings agreed to be erected on the lands demised, or the repair or rebuilding of the erections or buildings standing upon the lands demised, and as is usual and reasonable in such cases, and with liberty for the person hereby empowered to grant such building leases as aforesaid to enter into any prior agreement with any person who shall be willing to build upon the said lands, or any part thereof, for erecting several houses or other buildings upon a plot of land to be afterwards leased out in parcels at different rents, and to apportion any entire rent which shall have been agreed to be paid for a plot of land upon the different parcels thereof, in such manner as the person hereby empowered to grant such building leases as aforesaid shall think fit, so that each parcel of land may bear only its apportioned part of the entire rent, and to grant leases of the different parcels of land at the rents so apportioned accordingly; but that no

rent

rent to be fixed on any parcel of the lands shall exceed One-sixth of the improved yearly value of such parcel of land when built upon.

3.
But not more than Ten Acres to one person conditionally that Buildings, to be specified in Lease, are completed in Ten Years.

Provided always, and be it Enacted, That not more than Ten Acres of the same estate shall be granted on any repairing or building lease to any one person, either in his own name or to any other person or persons in trust for him; and that every such lease shall contain a condition that the lease shall be void, and the same is hereby declared void, if the buildings stipulated for at the time such lease is executed, be not completed in the space of Ten years from the making of such lease, and which buildings are hereby directed to be specified in such lease.

4.
Building Leases not to be binding unless they contain certain covenants.

Provided always, and be it Enacted, That no Building Lease to be granted under this Act shall be valid, unless the same shall contain a covenant on the part of the lessee for payment of the rent (if any) to be thereby reserved, and for keeping the buildings and premises comprised therein in repair, and a condition for re-entry on non-payment of the rent (if any) to be thereby reserved, nor unless the person to whom any such Building Lease shall be granted as aforesaid, shall execute a counterpart thereof.

5.
Building Leases not to be affected by invalidity of others granted under some agreement.

Provided also, and be it Enacted, That notwithstanding any matter or thing hereinbefore contained, any lease which shall be made in pursuance of any agreement so to be entered into as aforesaid, for the granting of more than one lease, shall, if the terms hereinbefore contained shall appear on the face of such lease to have been complied with, be considered as valid in itself, without reference to any other lease to be granted under the same agreement, to the intent that the lessee in every such lease, his executors, administrators or assigns, shall not be under the necessity of seeing or proving that the other lease or leases granted or to be granted under the same agreement is or are granted according to the terms of such agreement and of this Act.

6.
Tenants for life in possession empowered to grant Leases of Mines.

And be it Enacted, That from and after the passing of this Act, it shall be lawful for every Tenant for life in possession of any lands in Ireland, to demise, or lease and grant all and every or any of the mines, layers, veins, seams and strata of coal, freestone, lead, clay, sand, ironstone, and other metals, minerals or substances found and discovered, or which shall or may at any time hereafter be found or discovered in, under or upon the lands of which he shall be so tenant for life in possession, unto any person for any term or number of years not exceeding Sixty-one Years, to take effect in possession, or within One Half Year after the making of such lease, together with full and free liberty, license, power and authority to search, seek, dig, drive, win, work and make groves, shafts, drifts, trenches, sluices, way-gates, water-gates and water-courses, and to erect any furnace or furnaces, engines, mills or gins, and to use all other lawful ways and means as well for the finding, discovering, winning, working and getting the said coal, freestone, lead, clay, sand, ironstone and other minerals and substances from and out of the said mines and quarries, as for avoiding and carrying away water, foul-air or stench from forth and out of the same, and sufficient ground-room, heap-room and pit-room for the laying, placing and manufacturing of the coal, iron, lead, ironstone, rubbish and other substances that shall from time to time proceed from or be wrought, dug or gotten out of the same; and to grant such lessee full and sufficient way and passage to and for him and his agents, workmen and servants from time to time during the continuance of the term of years to be by such demise, lease or grant created, to take, lead and carry away with horses, carts, wains, waggons and other carriages, all the said coal, freestone, lead, clay, sand, ironstone, minerals and other substances to be wrought, won and gotten forth and out of the said mines and quarries thereby to be demised or leased, or so to be opened or worked as aforesaid; and also full and free liberty, license, power and authority to erect, build and set up in any convenient place or places near any of the said mines and quarries so to be demised or leased, or so to be opened and worked as aforesaid, all such houses, hovels, lodges, sheds or other buildings as shall from time to time be needful or convenient for the standing, laying and placing of the workmen, workhouses, worth-gear and utensils to be used or employed in or about the working and carrying on of the works of the said mines and quarries respectively; and to dig and get up stone, sods, peat, clay or spar for the making, building or repairing of such houses or other buildings, and to do whatever else shall be needful or requisite for, in or about the making, obtaining, getting, washing, cleansing or smelting of coal, iron, ironstone and other minerals and substances from and out of the said mines and quarries, and for the manufacturing and carrying away the same.

7.
Requisites to leases of mines.

Provided always, and be it Enacted, That by every demise, lease or grant to be made under the authority of the immediately preceding clause, there be reserved and made payable during the continuance of the term of years to be thereby created, the best and most improved rents, tolls, duties, royalties and reservations that can be reasonably had or gotten for the same; and so as every such demise, lease or grant be made without taking any fine or premium for the same; and so as in every such demise, lease or grant there be contained a condition for re-entry, or a power to make void and determine the same on non-payment of the rents, tolls, duties, royalties or reservations thereby to be reserved or made payable; and so as every lessee or grantee do execute a counterpart of the demise, lease or grant made to him, and do enter into such covenants and agreements for the working and managing of the said mines and works as the person making such leases or grants respectively shall judge expedient, and for rendering and paying the rents, tolls, duties, royalties and reservations thereby to be made payable.

8.
Mortgagor in possession may, under certain restrictions, execute the powers of leasing hereinbefore given.

And be it Enacted, That all or any of the powers of leasing hereinbefore contained shall and may be exercised by any Mortgagor in possession of any lands in Ireland, upon his giving Three calendar Months' previous notice in writing of his intention to grant such lease (which notice shall state the term of years proposed to be granted, and the rent proposed to be reserved by and the nature of the covenants to be inserted in such lease,) unto the Mortgagee, or if there shall be more than one Mortgagee, then unto both or all of such Mortgagees, or if such Mortgagee or any of such Mortgagees shall be absent from the United Kingdom, then by leaving such notice at the last or most usual place or places of abode of the Mortgagee or Mortgagees so absent: Provided always, That any Mortgagee may, within the space of Three calendar Months next after the giving or leaving of such notice, apply by Petition to His Majesty's Court of Chancery in *Ireland*, praying that it may be referred to a Master of the said Court of Chancery to settle the terms upon which the proposed lease shall be granted; and it shall be referred to the Master accordingly; and in that case the Mortgagor shall not be at liberty to grant any lease under the powers hereinbefore contained, or any of them, except upon such terms as shall be directed by the Master; and the expense of the Mortgagee or Mortgagees attendant upon such Petition, and the reference to the Master as to the granting of such lease, when taxed and allowed by the said Master, shall be a lien on the mortgaged hereditaments, and be attended with the same interest as the mortgage bears, and be recoverable in like manner as the mortgage debt.

9.
Mansion or family Dwelling-house or glebe-house not to be leased.

Provided also, and be it Enacted, That the powers of leasing hereby given shall not extend to or be construed to extend to any manor-house, mansion-house or family dwelling-house, or the offices, gardens, orchards or inclosures belonging, annexed or adjacent to such manor-house, mansion-house or family dwelling-house; and that no lease of lands shall be granted under the authority of this Act for building purposes within Five hundred yards of any manor-house, mansion-honse, family dwelling-house or glebe-house; nor shall such powers extend to or be construed to extend to any glebe-house, or the offices, gardens or orchards belonging thereto.

10.
Tenants for life in possession empowered, with the approbation of the Court of Chancery, to make exchange.

And be it Enacted, That from and after the passing of this Act it shall be lawful for any Tenant for life in possession of Lands in *Ireland* who shall be desirous that the Lands of which he shall be so Tenant for life in possession, or any part thereof, may be exchanged for other Lands in *Ireland*, to apply by Petition to Her Majesty's Court of Chancery in *Ireland*, praying that it may be referred to a

Master of the said Court, to inquire into and ascertain the propriety of such exchange; and such Petition shall, if the said Court so think fit, be referred to a Master accordingly, who shall have power to make all such inquiries respecting the proposed exchange as to him shall seem fit, and shall make his report to the Court thereon; and if the Court shall be satisfied that such proposed exchange is proper, and will be advantageous to the persons entitled in reversion or remainder, and shall order or direct the same to be carried into effect, then the same shall be carried into effect accordingly; and it shall be lawful for the said Court to make and give such orders and directions for that purpose, and for effecting the other purposes hereinafter mentioned in relation to such exchange, or any of such purposes as to the said Court shall seem necessary or expedient; and the Tenant for life shall have power by deed, to be approved of by a Master of the said Court, to convey and assure the fee simple or absolute and entire interest of the Lands so to be exchanged, in such manner as shall be necessary for giving full effect to the said exchange; and the Master shall settle the deed necessary for conveying and settling the Lands to be taken in exchange by the Tenant for life to, for and upon such and the like uses, trusts, intents and purposes, and in the like manner as the Lands given in exchange by the Tenant for life did previous to such exchange stand settled or limited to, or such of them as at the time of making such conveyance and settlement shall be existing undetermined and capable of taking effect.

11.
Application of money payable to any tenant for life for equality of exchange.

And be it Enacted, That when any money shall be payable to the Tenant for life for equality of exchange, the money so to be received for equality of exchange shall be applied under the direction and with the approbation of the said Court, to be signified by order made in the matter of said Petition, in payment of the costs of and attendant on such Petition and the effecting the exchange, and all matters relating thereto, or so much of such costs as the said Court shall direct, and in the redemption or discharge of any debt or debts or other incumbrances, or such part thereof as the Court shall authorize to be paid affecting the Lands so given in exchange by the Tenant for life, or affecting other Lands standing settled therewith to the same or the like uses, intents or purposes; or where such money shall not be so applied, then the same shall be laid out and invested, under the like direction, and with the like approbation of the Court, in the purchase of Lands in *Ireland*, which shall be conveyed and settled to, for and upon such and the like uses, trusts, intents and purposes, and in the like manner as the Lands given in exchange by the Tenant for life did previous to such exchange stand settled or limited to, for or upon such of them as at the time of making such conveyance and settlement shall be existing undetermined and capable of taking

effect;

455

effect; and in the mean time, and until such purchase shall be made, the said money shall be paid into the Bank of *Ireland* in the name and with the privity of the Accountant General of the said Court, and be invested by the Accountant General in his name in the purchase of Three Pounds per centum Consolidated, or Three Pounds per centum Reduced Bank Annuities, or Three Pounds Ten Shillings per centum Bank Annuities, and in the mean time and until the Bank Annuities shall be ordered by the said Court to be sold for the purposes aforesaid, the dividends and annual produce of the said Consolidated or Reduced or other Bank Annuities shall from time to time be paid by order of the said Court to the person who would for the time being have been entitled to the rents of the Lands so hereby directed to be purchased as aforesaid, in case such purchase and settlement were made.

12. Tenant for life empowered on any exchange to charge, with costs, and money payable by him for equality of exchange.

And be it Enacted, That upon any such exchange as aforesaid the Tenant for life shall have power, by deed, to be approved of by a Master of the said Court, to charge the Lands taken by such Tenant for life, on the exchange, with the payment as well of the costs of and attendant on the Petition, and the effecting the exchange, and all matters relating thereto, or so much of such costs as the said Court shall direct, as also of any money which shall be payable by the Tenant for life for equality of exchange, together with interest for the money so charged at any rate not exceeding Six Pounds per centum per annum, and to demise, convey, or otherwise assure the same Lands unto the person who shall advance such money by way of mortgage for securing the payment of the same and the interest thereof, in such manner in all respects as the Master shall approve of; but no person becoming entitled to the possession or receipt of the rents of the lands so charged after the determination of the said life estate, or any other preceding partial or qualified estate or interest therein, shall be liable to pay any further or larger arrear of interest on the money so charged than for Twelve calendar Months next preceding the time when the title to such possession or receipt of rents shall have commenced; and if the Tenant for life shall himself choose to advance the money so payable for costs and for equality of exchange as aforesaid, or any part thereof respectively, then he shall have a lien on the inheritance for the repayment thereof, with interest for the same at the rate of Six Pounds per centum per annum, but he shall have no claim for interest accruing during his life, and shall be bound as between him and the persons in remainder to keep down the whole of the interest accruing during his life, if the money shall be advanced by another person.

If tenant for life advance such costs and money, he to have a lien on the inheritance for same.

13. Tenants for life or for any greater estate in possession

And be it Enacted, That from and after the passing of this Act it shall be lawful for any person being Tenant for life or for any greater estate empowered to make partition.

estate in possession of an undivided share of lands in *Ireland*, and also for all trustees and feoffees in trust for charitable or other purposes, who shall be seised or interested in possession of or in an undivided share of lands in *Ireland*, to apply by Petition to the said Court of Chancery in *Ireland*, for a partition to be made of the lands of or in an undivided share whereof the person so applying by Petition shall be seised or interested; and such Petition shall, if the said Court so think fit, be referred to a Master, who shall have power to make all such inquiries respecting the proposed exchange, as to him shall seem fit, and shall make his report thereon; and if the said Court shall be satisfied that a partition is proper and will be advantageous to all persons interested, and shall order or direct a partition to be made, then the same shall be carried into effect accordingly; and it shall be lawful for the said Court to make and give such orders and directions for that purpose, and for effecting the other purposes hereinafter mentioned in relation to such partition, or any of such purposes as to the said Court shall seem necessary or expedient, and especially to order and direct any person whom such Court may think proper to appoint for the purpose, to execute any deeds or instruments, or do any other acts whatsoever in the place and stead of any person who or whose place of residence may be unknown, or who may not be resident in *Ireland*, or whose personal execution of such deeds or instruments, or doing of such other acts, cannot for any other reason be obtained; and every partition which shall be made, and all deeds and instruments and other acts which shall be executed and done in relation thereto by any Tenant for life or other person having a partial or qualified estate or interest only, or by the guardian of any infant, or by the committee of any lunatic or idiot, or by any other person whomsoever under the orders or directions of the said Court, shall be binding upon all persons seised or interested of or in the lands of which partition shall be so made, or of or in any undivided shares thereof, and shall be effectual to all intents and purposes whatsoever; and the divided share of lands which upon any such partition shall be allotted to each person, shall be conveyed and settled by deeds, to be approved of by a Master of the said Court, to, for and upon such and the like uses, trusts, intents and purposes, and in the like manner as the undivided share in lieu whereof such divided share shall have been allotted did previous to such partition stand settled or limited to, for or upon, or such of them as at the time of making such conveyance or settlement shall be existing undetermined and capable of taking effect.

14.
Application of money payable for equality of partition to owners having partial in-

And be it Enacted, That when any money shall be payable by way of equality of partition to the owners of any divided share of lands allotted on any such partition, and the person entitled in possession to such divided share shall have a partial or qualified estate or interest only terests or under disability.

only therein, or such owner or any of such owners shall be trustees or feoffees in trust for charitable or other purposes, or under any legal disability, such money shall be applied under the direction and with the approbation of the said Court, to be signified by order made in the matter of the said Petition, in the like manner as the monies to be raised by way of equality of exchange are hereby directed to be applied under the direction of the said Court.

15.
Persons having partial interests or under disability empowered to charge with costs and money payable for equality of partition.

And be it Enacted, That it shall be lawful for any person having a partial or qualified estate or interest only in any divided share of lands allotted on any such partition, or being trustees or feoffees in trust for charitable or other purposes, or under any legal disability, or having such partial or qualified estate or interest only, and being also under any legal disability, by deed, to be approved of by a Master of the said Court, to charge such divided share with the payment as well of the costs of and attendant on the effecting the partition, and all matters relating thereto, or so much of the said costs as the said Court shall direct, as also of any money which shall be payable by or in respect of the divided share allotted to such person on the partition, together with interest for the money so charged at any rate not exceeding Six Pounds per centum per annum, and to demise, convey or otherwise assure such divided share unto the person who shall advance such money by way of mortgage for securing the payment of the same and the interest thereof, in such manner in all respects as the Master shall approve of; but no person becoming entitled to the possession or receipt of the rents of the divided share so charged after the determination of any preceding partial or qualified estate or interest therein, shall be liable to pay any further or larger arrear of interest on the money so charged than for Twelve calendar Months next preceding the time when the title to such possession or receipt of rents shall have commenced; and if any person having a partial or qualified estate or interest only in any such divided share, shall himself choose to advance the money so payable for costs and for equality of partition as aforesaid, or any part thereof respectively, then he shall have a lien on the inheritance for the repayment thereof, with interest for the same at the rate of Six Pounds per centum per annum; but he shall have no claim for interest accruing during the continuance of such his partial or qualified estate or interest, and shall be bound as between him and the persons entitled in remainder to keep down the whole of the interest accruing during the continuance of such his partial or qualified estate, or interest, if the money shall be advanced by another person.

If person having partial interest advance such costs and money, he to have a lien on the inheritance.

16.
Persons paying money for equality of exchange or partition, or ad-

Provided always, and be it Enacted, That every person who shall pay any money by way of equality of exchange or partition, or shall advance any money by way of mortgage under the provisions vancing money by mortgage, to be discharged from all liability to see to its application.

hereinbefore contained, or any of them, shall, after having paid his money pursuant to the order of the said Court, be wholly exonerated and discharged from all liability to see to the application of such money.

17.
Copy of Petition to be served on Parties interested.

And be it Enacted, That a copy of every Petition which under the provisions of this Act shall be presented to the said Court of Chancery by a Tenant for life, shall be served Twenty-one Days at the least before the hearing thereof upon the person or persons entitled to the first vested estate of inheritance in remainder after the estate of the Tenant for life, and every intervening Tenant for life and other person having an intervening partial estate in the lands proposed to be exchanged, or the undivided share of lands of which partition is proposed to be made under this Act; and a copy of every Petition, which under the provisions of this Act shall be presented to the said Court of Chancery, for a partition, shall be also served on the person or persons other than the petitioner who shall be entitled to the freehold in possession of any undivided share of the Lands whereof partition is proposed to be made; and every person upon whom a copy of any such Petition shall be served under this Act, and any other person interested in the said Lands shall be at liberty to attend before the Master to whom such Petition shall be referred, and to consent or object to the object of such Petition.

18.
Notice of intended exchange or partition to be given to Incumbrances.

And be it Enacted, That if any lands proposed to be exchanged, or any undivided share of Lands of which partition is proposed to be made under this Act, shall be subject to any subsisting mortgage, charge, lien or other specific incumbrance, appearing in the Register Office in *Dublin*, then the Tenant for life or other person by whom such exchange or partition is proposed to be made, shall, previously to presenting such Petition as aforesaid, give notice in writing of his intention to present the same to the person entitled to the benefit of the subsisting mortgage, charge, lien, or other specific incumbrance, appearing in the said Register Office, and affecting the Lands proposed to be exchanged, or the undivided share of Lands in which the person applying for a partition is interested.

19.
CLAUSE (B.)
Provision for cases in which copy of Petition cannot be served or notice given as before provided.

Provided always, and be it Enacted, That if any person upon whom a copy of any Petition, or to whom notice of the intention to present any Petition is hereinbefore required to be served or given, shall be of unsound mind, or under the age of Twenty-one Years, or under any other legal disability, or beyond the limits of the United Kingdom of *Great Britain* and *Ireland*, and in every other case in which the said Court of Chancery shall be of opinion that by reason of the person or persons upon whom the copy of any such Petition, or to whom any such notice is so required to be served or given, or his, her or their residence being unknown to the Petitioner, or for any other cause, such copy of Petition or notice cannot be served or given in the manner hereinbefore prescribed; then the said Court of Chancery shall have power to direct how and in what manner such copy of Petition or notice shall be served or given, in lieu of the service or notice hereinbefore required; and such substituted service or notice shall be as effectual as if the same had taken place in the manner hereinbefore prescribed: Provided also, That whenever such copy of Petition or notice cannot be served or given in the manner hereinbefore prescribed, advertisements shall be inserted in the *Dublin* Gazette, and in such one or more newspaper or newspapers published in *Ireland*, as the said Court of Chancery shall direct, stating the fact of such Petition having been presented.

20. Clause (C.) Exchange or partition effected under order of Court to be binding on all persons interested.

And be it Enacted, That whenever a partition shall have been carried into effect, under the order of the said Court of Chancery, the same shall be binding upon all persons interested; and the fact of the same having been so carried into effect shall be conclusive evidence that a copy of the Petition for or relating to such partition was duly served, and where the case may require, that notice of the intention to present the Petition was duly given, according to the provisions of this Act.

21. Definition of Terms in this Act.

And be it Enacted, That in the construction of this Act the term "Tenant for life" shall extend to any person entitled either legally or equitably to an estate or interest in any lands for the term of his own life, or for any term of years determinable on his life, including all corporations aggregate and sole, and also all Bishops, Parsons and other Ecclesiastical Persons as to lands held by them in those respective characters, but so that, as regards all Parsons and other Ecclesiastical Persons (except Bishops and Deans and Chapters), the consent of their patron and ordinary be obtained to the exercise of the powers of this Act, and so as this Act shall not prejudice in any way the powers of leasing now possessed by Tenants for life, Bishops, Parsons and other Ecclesiastical persons; and the word "Lands" shall extend to manors, advowsons, rectories, messuages, lands, tenements, tithes, rents and hereditaments of any tenure (including those held for terms of years), and whether corporeal or incorporeal, and any undivided share thereof; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things; and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

22. Act not to enable a Lessee to

Provided always, and be it Enacted, That the provisions of this Act shall not enable any Lessee to pass or in anywise affect the interest

of

affect the interest of his Landlord.

of his Landlord in any lands held under or by virtue of a lease; but nevertheless any Lessee, being such Tenant for life in possession as hereinbefore mentioned, shall and may exercise all or any of the powers of this Act (except the power of exchanging) so as to bind or pass the interest of every person entitled or interested in remainder after the determination of the estate or interest of such Tenant for life to or in the term, estate or interest granted or created by the lease under or by virtue whereof the lands are so holden.

23.
Act not to confer powers withheld by instrument creating estate of Tenant for life.

Provided also, and be it Enacted, That this Act shall not enable any Tenant for life to exercise any of the powers hereby given, from the exercise of which he shall be expressly restrained by the instrument by which his life estate was created.

24.
Clause (A.) As to existing Suits of Action, for Partition.

And be it Enacted, That all suits and actions now depending in any of Her Majesty's Courts of Law or Equity in *Dublin*, for a partition of Lands, shall cease, and be no longer proceeded in, if the Judge or Judges of such Courts shall think proper so to order; and that such Judge or Judges shall dispose of the costs of such actions or suits upon the matter of the Petition for a partition, to be presented under this Act or otherwise, as to such Judge or Judges, shall seem meet.

25.
Act may be amended.

And be it Enacted, That this Act may be amended, altered or repealed by any Act or Acts during the present Session of Parliament.

Leases and Exchanges.

(Ireland.)

A

BILL

[AS AMENDED ON RE-COMMITMENT]

To enable Tenants for Life and Mortgagors in possession of Lands in Ireland to grant Leases, and to enable Tenants for Life of Lands in Ireland to make Exchange, and for giving a summary Remedy for Partition in all cases as to Lands in Ireland.

(Prepared and brought in by Mr. Lynch and Mr. Wyse.)

Ordered, by The House of Commons, *to be Printed,*
23 *June* 1837.

419.

A

BILL

For facilitating the Recovery of the Possession of Tenements after the determination of the Tenancy.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS it is expedient to provide for the more speedy and effectual recovery of the possession of Premises unlawfully held over after the determination of the Tenancy;

BE it therefore Enacted, by The KING's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the *passing of this Act*, when and so soon as the term and interest of any Tenant in any premises whereof the rent payable in respect of such tenancy did not exceed the rate of *Twenty* Pounds by the year, shall have expired by effluxion of time, or shall have been duly determined by a notice to quit, and such Tenant, or if such Tenant do not actually occupy the same premises, or occupy only a part thereof, any person or persons by whom the same or any part or parts thereof shall be then actually occupied, shall neglect or refuse to quit and deliver up possession of the same premises, or of such part or parts thereof respectively, upon the expiration or other determination of the tenancy as aforesaid, it shall be lawful for the said Landlord or his agent to cause the person or persons so neglecting or refusing to be served (in the manner hereinafter mentioned) with a written notice, signed by the

1.
Where Tenant or Occupier of Premises whereof the Rent does not exceed the rate of 20 *l.* a year, holds over, the Landlord may go before a Justice of Peace, and make information and complaint that the Tenancy is expired, that he is entitled to possession, and that Notice of the application has been served, where-

upon such Justice shall issue his Warrant directing the Constables to assist the Landlord in retaking Possession.

said Landlord or his agent, that in case possession of the same premises, or of such part or parts thereof as shall be so held over respectively, shall not, on or before the expiration of *Four* Days from the service of such Notice, be peaceably delivered up to the said Landlord or his Agent, proceedings will be taken for the forcible retaking of the possession under the authority and according to the mode prescribed by this Act; and if after the expiration of such *Four* Days from the service of the said notice, such Tenant or such Occupier or Occupiers respectively, or any or either of them, shall still neglect or refuse to deliver up possession of the same premises, or of any part thereof, to the said Landlord or his agent, it shall be lawful for the said Landlord or his agent to go before any Justice of the Peace acting for the county, riding, city, borough or place, within which the premises, or the principal part thereof, shall be situate, and to make information and complaint in writing before such Justice (which said information and complaint need not be upon oath), setting forth the nature of the holding, the expiration or other determination of the tenancy, with the time and manner thereof, and where the title of the Landlord has accrued since the letting of the premises, the right and character by and in which he claims the possession, the service of the notice, a duplicate of which shall be annexed to the said information, and the neglect or refusal of the Tenant, or Occupier or Occupiers, or any or either of them respectively, as the case may be, to deliver up the possession of the same premises, or of some part thereof, according to the tenor of the said notice; and the said Justice is hereby authorized and required, upon information and complaint so made, together with an affidavit of the service of such notice, in the manner hereinafter specified, such Justice being hereby empowered to administer an oath for that purpose, to issue his warrant to the Constables and Peace Officers of the district or place within which the said premises, or the principal part thereof, shall be situate, commanding them, upon the requisition of the said Landlord or his agent, to repair to the said premises, and there to aid and assist the said Landlord or his agent in entering by force, if needful, into the same premises, or such part or parts thereof as shall be so held over as aforesaid, and in taking full and effectual possession thereof: Provided, That such entry shall not be made on a Sunday, Good Friday or Christmas-day, nor at any time except between the hours of *Nine* in the morning and *Four* of the afternoon: Provided also, That nothing hereinbefore contained shall be deemed to protect the Landlord or his agent from any action which may be brought against him by any such Tenant or Occupier for or in respect of such entry and taking possession, where such Landlord had not at the time of making the information and complaint aforesaid lawful right to the possession of the same premises, or such part thereof as shall have been so entered as aforesaid.

Not to protect the Landlord from an Action where he had not, at the time of making such Application lawful right to possession of the Premises

And

2. The manner in which Notice of such Application shall be served.

And be it Enacted, That the notice hereinbefore specified may be served either personally or by leaving the same with some person there, being in and apparently residing at the place of abode of the person or persons so holding over as aforesaid; and that the person serving the same shall explain to the person served, or with whom the same shall be left as aforesaid, the purport and intent thereof: Provided, That if the person or persons so holding over, or any or either of them, cannot be found, and the place of abode of such person or persons shall either not be known, or admission thereto cannot be obtained for serving the same notice, the posting up of the said notice on some conspicuous part of the premises so held over, shall be deemed to be good service upon such person or persons respectively.

3. Persons wilfully making false Information, &c. guilty of Misdemeanor.

And be it Enacted, That if in any such information and complaint any Landlord, agent or other person, shall knowingly and wilfully make any false statement, with a corrupt purpose of obtaining possession of any premises by the means aforesaid, without having lawful right thereto, he shall be deemed and taken to be guilty of wilful and corrupt *Perjury*; and it shall be lawful for the Court before whom the trial of such offence shall be had, if they shall so think fit, to make such and the like order touching the defraying the expenses of the Prosecution, and indemnifying the Prosecutor as they are now or at any time hereafter shall be authorized and empowered to make upon Prosecutions for Perjury.

4. Tenant entitled to receive from the Justice a Copy of the Information, Notice and Affidavit.

And be it Enacted, That every such Tenant or Occupier who shall be turned out of possession by the means and in the manner aforesaid shall be entitled to demand and have of and from such Justice as aforesaid a copy of such Information, Duplicate, Notice and Affidavit of Service as aforesaid, in payment for the same of a sum not exceeding the rate of *One Penny Halfpenny* for every folio of Ninety Words.

5. Where Landlord has lawful Title, not to be deemed a Trespasser by reason of irregularity, but to be liable in an Action on the case for special Damage, proceeding from irregularity.

And be it Enacted, That where the Landlord at the time of laying the information aforesaid had lawful right to the possession of the premises, or of the part or parts thereof, so held over as aforesaid, neither the said Landlord, nor his agent, nor any other person acting in his or their behalf, shall be deemed to be a trespasser by reason merely of any irregularity or informality in the mode of proceeding for obtaining possession under the authority of this Act; but the party aggrieved may, if he think fit, bring an action on the case for such irregularity or informality, in which the damage alleged to be sustained thereby shall be specially laid, and may recover full satisfaction for such special damage, with costs of suit: Provided, That if the special damage so laid be not proved, the Defendant shall be entitled to a verdict, and that, if proved, but assessed by the Jury at any sum not exceeding

Five Shillings, the Plaintiff shall recover no more costs than damages, unless the Judge before whom the trial or inquiry shall have been held, shall certify upon the back of the Record that in his opinion full costs ought to be allowed.

6.
How Goods found on the Premises are to be disposed of.

And be it Enacted, That if at the time of taking possession by the manner aforesaid, any goods whereof any such said Tenant or Occupier shall be the apparent owner, shall be found in or upon the premises so entered, it shall be lawful for such apparent owner, and any persons authorized by him, not exceeding *Three* in the whole, during *Three* Days, exclusive of Sunday next afterwards, peaceably and after request to enter, at any time between the hours of *Nine* in the morning and *Four* in the afternoon, into or upon the same premises, for the purpose of removing the said goods, and to remove the same without hindrance or molestation; and in case, after the expiration of such *Three* Days, the said goods, or any part thereof, shall not have been taken away from the said premises, it shall be lawful for the said Landlord, or any person acting by his authority, to remove the same, doing no unnecessary damage, to some convenient place near thereto; and the said Landlord, or some person in his behalf, shall thereupon, as soon as conveniently may be, give notice to the said apparent owner (which notice may be served in the manner hereinbefore provided for service of the notice of application to the Justice), of the place where the said goods are deposited, and that they will be delivered up to him on application to a person and at a place specified in such notice for payment of the reasonable charges of removing and keeping the same at any time within *Fourteen* Days from the service of the notice, after which time, if not sooner removed, they will be sold by public auction; and if after the expiration of *Fourteen* Days from the service of such Notice, the said goods, or any part thereof, shall not be taken away pursuant to such notice, it shall be lawful for the said Landlord, or any person on his behalf, to sell the same by public auction for the best price which can be got, and, after deducting from the proceeds of such sale as well the expenses of the sale as the reasonable charges of removing and keeping the said goods, the said Landlord, or other person on his behalf, shall pay the overplus to the said apparent owner on demand: Provided, That nothing in this enactment shall lessen or affect the legal right of any person to seize and take the same goods, by way of distress or in execution, or by any other legal process whatsoever, at any time before such sale thereof or delivery to the said apparent owner.

7.
Where Premises are held at a Rent exceed-

And be it Enacted, That when the term or interest of any Tenant in any premises (held at a rent exceeding the rate of *Twenty* Pounds by the year), shall have expired or been determined as aforesaid, and an action ing the rate of 20*l.* a year, Application may be made to a Judge for security for Damages and Costs.

action of ejectment shall have been brought by the Landlord for the recovery of the possession thereof, it shall be lawful for any Judge of the Superior Courts of Common Law at Westminster, after appearance in the said action shall have been entered by or for the Defendant, upon proof, by affidavit being made to his satisfaction that such premises were held at a rent to be specified exceeding such rate, and that such tenancy has expired or been determined, as the case may be, and that the rent in arrear (if any) amounts to a sum to be specified, to order that the Defendant, within a time to be mentioned in such order, shall give security by bond, with *Two* Sureties, to the Lessor of the Plaintiff, in the form and with the condition set forth in the Schedule to this Act, in an amount specified (being such as the said Judge shall deem sufficient to cover the mesne profits and the costs which may be recovered in and by such action), or show good cause why he should not give such security, and that in default thereof, judgment in such action shall be entered for the Plaintiff; and in case the Defendant shall not give such security, pursuant to such order, or show good cause why he should not give such security, or if, having given such security, he shall fail to perfect the same in the manner and within the period prescribed for perfecting bail, in ordinary cases where bail is given to the action, the Plaintiff, upon affidavit of the service of the order, and of such default, shall be entitled to a peremptory order for entering up judgment against the Defendant, and such judgment may be entered up accordingly: Provided, That no proceeding shall be commenced upon any such security after the expiration of *Six* calendar Months from the time when possession of the premises shall have been actually delivered to the Landlord: Provided also, That if such Judge shall be satisfied, upon cause shown by the Defendant, that he did not originally become Tenant under the Lessor of the Plaintiff himself, and that he has bonâ fide reason to dispute the title of the said Lessor of the Plaintiff, no security shall in such case be required.

8.
Interpretation Clause.

And be it Enacted, That in construing this Act the word "Premises" shall be taken to signify lands, houses or other corporeal hereditaments; and that the word "Person" shall be taken to comprehend a body politic, corporate or collegiate, as well as an individual; and that every word importing the singular number shall, where necessary to give full effect to the enactments herein contained, be deemed to extend and be applied to several persons or things, as well as one person or thing; and that every word importing the masculine gender shall, where necessary, extend and be applied to a female as well as a male; and that the term "Landlord" shall be understood as signifying the person entitled to the reversion of the premises, or, if the property be held in joint tenancy, co-parcenary or tenancy in common, shall be understood as signifying any one of the persons entitled to such reversion; and that the word "Agent" shall be taken to signify any person usually employed by the Landlord in the letting of the premises, or in the collection of the rents thereof, or specially authorized to act in the particular matter by writing under the hand of such Landlord.

9.
Not to extend to Scotland or Ireland.

And be it Enacted, That this Act shall not extend to Scotland or Ireland.

SCHEDULE

To which this ACT refers.

FORM of Bond and Condition where the Defendant in an Action of Ejectment has been required, by order of a Judge, to give Security for Damages and Costs.

KNOW all Men by these Presents, That we, A. B. of, &c., C. D. of, &c., and E. F. of, &c. are held and firmly bound to G. H. of, &c. in the sumof   to be paid to the said G. H. his certain attorney, executor, administrators or assigns, &c.

Whereas in a certain Action of Ejectment brought by G. H. Plaintiff, against A. B. Defendant, in the Court of King's Bench, Common Pleas or Exchequer, it hath been ordered by the Honourable Mr. Justice M. N. that the said Defendant shall give security to the said Plaintiff for such damages and costs as may be recovered in the said Action.

Now the condition of this obligation is such, that if the said Defendant shall satisfy all such damages and costs as shall be recovered by the said Plaintiff in the said Action, then this obligation shall be void, otherwise the same shall remain in full force and effect.

Recovery of Tenements.

A

BILL

For facilitating the Recovery of the Possession of Tenements after the determination of the Tenancy.

(*Prepared and brought in by*
Mr. Aglionby and Mr. Ewart.)

Ordered, by The House of Commons, *to be Printed,*
24 *February* 1837.

59.

469

A

B I L L

To amend an Act made in the Tenth Year of the Reign of his late Majesty King GEORGE the Second, intituled, "An Act to explain and amend so much of an Act made in the Twelfth Year of the Reign of Queen ANNE, intituled, 'An Act for reducing the Laws relating to Rogues, Vagabonds, Sturdy Beggars and Vagrants, into one Act of Parliament, and for the more effectual punishing such Rogues, Vagabonds, Sturdy Beggars and Vagrants, and sending them whither they ought to be sent."

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS by an Act passed in the tenth year of the reign of his late Majesty King GEORGE the Second, intituled, "An Act to explain and amend so much of an Act made in the twelfth year of the Reign of Queen ANNE, intituled, 'An Act for reducing the Laws relating to Rogues, Vagabonds, Sturdy Beggars and Vagrants into one Act of Parliament, and for the more effectual punishing such Rogues, Vagabonds, Sturdy Beggars and Vagrants, and sending them whither they ought to be sent,' as relates to Common Players of Interludes," it was enacted, that from and after the Twenty-fourth day of June One thousand seven hundred and Thirty-seven, no person should, for hire, gain or reward, act, perform, represent, or cause to be acted, performed or represented, any new Interlude, Tragedy, Comedy, Opera, Play, Farce, or other Entertainment of the Stage, or any part or parts therein, or any new Act, Scene or other part added to any old Interlude, Tragedy, Comedy, Opera, Play, Farce, or other Entertainment of the Stage, or any new Prologue or Epilogue, unless a true copy thereof were sent to the Lord Chamberlain of the King's Household for the time being Fourteen days at least before the acting, representing or performing thereof, together with an account of the Playhouse or other place where the same should be, and the time when the same was intended Preamble.

intended to be first acted, represented or performed, signed by the Master or Manager, or one of the Masters or Managers, of such Playhouse or place, or Company of Actors therein:

And whereas also by the said Act, it was further enacted, that from and after the said Twenty-fourth day of June One thousand seven hundred and thirty-seven, it should and might be lawful to and for the said Lord Chamberlain for the time being from time to time, and when and as often as he should think fit, to prohibit the acting, performing or representing any Interlude, Tragedy, Comedy, Opera, Play, Farce, or other Entertainment of the Stage, or any Act, Scene or part thereof, or any Prologue or Epilogue, and in case any person or persons should, for hire, gain or reward, act, perform or represent, or cause to be acted, performed or represented, any new Interlude, Tragedy, Comedy, Opera, Play, Farce or other Entertainment of the Stage, or any Act, Scene or part thereof, or any new Prologue or Epilogue, before a Copy thereof should be sent as aforesaid, with such account as aforesaid, or should, for hire, gain or reward, act, perform or represent, or cause to be acted, performed or represented, any Interlude, Tragedy, Comedy, Opera, Play, Farce, or other Entertainment of the Stage, or any Act, Scene or part thereof, or any Prologue or Epilogue, contrary to such prohibition as aforesaid, every person so offending should for every such offence forfeit the sum of Fifty Pounds; and every Grant, License and Authority (in case there be any such), by or under which the said Master or Masters, or Manager or Managers, set up, formed or continued such Playhouse, or such Company of Actors, should cease, determine and become absolutely void, to all intents and purposes whatsoever:

And whereas it is expedient that no representation may be admitted on the Stage whereby the Christian Religion in general, or the Church of England, may in any manner suffer reproach, or any abuse or misrepresentation of sacred characters, tending to expose religion itself and bring it into contempt, but that strict regard may be had to morality and public decorum, whereby such representations may contribute to the support and preservation of order and good government:

And whereas also it is expedient to repeal certain parts of the said recited Act;

1.
Performances
not to take

BE it therefore Enacted, by The KING's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the *passing of this Act*, no Interlude, Tragedy, Comedy, Opera, Play, Farce or other Entertainment of the Stage, shall or may be acted, represented or performed in the city of Westminster, or within the liberties thereof, on any Sunday, nor on Ash Wednesday, nor during Passion Week or any part thereof, nor on Whitsun Eve, Christmas Eve or Christmas-day, nor on any day or night specially appointed or set apart for a Public Thanksgiving, or Fast or General Mourning.

place on certain days.

2.
The Performances authorized by the Patents or Licenses granted to any Theatre may take place at all other times.

And be it Enacted, That it shall and may be lawful to and for the proprietor or proprietors, manager or managers, lessee or lessees, of any Theatre or Theatres within the said city of Westminter or the liberties thereof, on all other days and nights (other than and except such as are hereinbefore mentioned and excepted) to act, represent and perform, or cause, procure or permit to be acted, represented and performed at or in any such Theatre or Theatres with and under the authority, or by virtue of any Letters Patent from His present Majesty, or any of His Royal Predecessors, or a License from the Lord Chamberlain for the time being of His Majesty's Household, all such performances as by their respective Patents or Licenses they are at present authorized, or shall or may at any time or times hereafter be authorized to act, perform or represent, subject nevertheless to the provision contained in the said recited Act passed in the tenth year of the reign of his said Majesty King GEORGE the Second, whereby it was enacted, that a Copy of every new Interlude, Tragedy, Comedy, Opera, Play, Farce or other Entertainment of the Stage, or any new Prologue or Epilogue should be sent to the said Lord Chamberlain *Fourteen* Days at least before the acting, representing or performing thereof, together with an account of the Playhouse or other place where the same should be, and the time when the same was intended to be first acted, represented or performed, and signed as hereinbefore mentioned and therein is provided.

3.
Oratorios or other Sacred Entertainments may take place except on Sundays, Christmas-day and Good Friday.

And be it Enacted, That from and after the *passing of this Act*, it shall and may be lawful to and for the proprietor or proprietors, manager or managers, lessee or lessees, for the time being of any theatre or theatres within the said city of Westminster and the liberties thereof, to act, represent or perform, or cause or procure to be acted, represented or performed, any Oratorio, Selection of Music, or other Sacred Entertainment, on any day or night in the year, other than and except on Sundays, Christmas-day and Good Friday, or on any day or night which shall or may be specially appointed and set apart for a Public Thanksgiving, Fast or General Mourning.

4.
Repeal of certain Provisions in recited Act.

And be it Enacted, That so much of the said recited Act as authorizes the Lord Chamberlain to prohibit the acting, performing or representing any Interlude, Tragedy, Comedy, Opera, Play, Farce, or other entertainment of the stage, or any act, scene or part thereof, or any Prologue or Epilogue after the same shall have been duly licensed in the manner in the said recited Act provided, and also so much of the said recited Act as inflicts a penalty for the said offence, and enacts that the grant, license and authority should cease, determine and be void, shall be and the same is hereby repealed.

5.
Act not to interfere with Rights or Privileges of the Lord Chamberlain.

And be it Enacted, That nothing in this Act contained shall extend, or be construed to extend, to alter, abridge or interfere with any of the rights, powers, privileges or immunities of the Lord Chamberlain for the time being of His Majesty's Household which he has or possesses under or by virtue of any Act or Acts now in force, other than and except so much of the said recited Act as is hereby repealed; and all powers, penalties, provisions, articles, clauses and things contained in the said recited Act of the tenth year of the reign of his said Majesty King George the Second (except as aforesaid) shall continue and be in full force and effect to all intents and purposes as if this Act had not been made.

6.
Act to be deemed a Public Act.

And be it Enacted and Declared, That this Act shall be deemed and taken to be a Public Act; and shall be judicially taken notice of as such, by all Judges, Justices and other persons, in all courts and places whatsoever, without being specially pleaded.

Theatres Regulation.

A

BILL

To amend an Act made in the Tenth Year of the Reign of his late Majesty King George the Second, intituled, "An Act to explain and amend so much of an Act made in the Twelfth Year of the Reign of Queen Anne, intituled, 'An Act for reducing the Laws relating to Rogues, Vagabonds, Sturdy Beggars and Vagrants, into one Act of Parliament, and for the more effectual punishing such Rogues, Vagabonds, Sturdy Beggars and Vagrants, and sending them whither they ought to be sent.'"

(Prepared and brought in by
Mr. Thomas Duncombe and Mr. Hall.)

Ordered, by The House of Commons, *to be Printed,*
17 April 1837.

214.

13 *July* 1837.—1 Vict.

A

BILL,

INTITULED,

AN ACT (1) *for the Regulation of Theatres.*

[*Note.*—The Figures in the Margin denote the Number of Presses in the Ingrossment.]
[*N. B.*—The Words and Clauses printed beneath a Black Line at the bottom of the Page were struck out, and the Words and Clauses printed in *Italics* were added, by the Lords.]

1 WHEREAS (2) *it is expedient to prevent the recurrence of practices which have occasioned scandal to Religion*; BE it

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(1) to amend an Act of the Tenth Year of his Majesty King George the Second, to explain and amend so much of an Act made in the Twelfth Year of the Reign of Queen Anne, intituled, "An Act for reducing the Laws relating to Rogues, Vagabonds, Sturdy Beggars and Vagrants, into one Act of Parliament, and for the more effectual punishing such Rogues, Vagabonds, Sturdy Beggars and Vagrants, and sending them whither they ought to be sent."

(2) by an Act passed in the tenth year of the reign of his late Majesty King George the Second, intituled, "An Act to explain and amend so much of an Act made in the twelfth year of the reign of Queen Anne, intituled, 'An Act for reducing the Laws relating to Rogues, Vagabonds, Sturdy Beggars and Vagrants into one Act of Parliament, and for the more effectual punishing such Rogues, Vagabonds, Sturdy Beggars and Vagrants, and sending them whither they ought to be sent,' as relates to Common Players of Interludes," it was enacted, that from and after the Twenty-fourth day of June One thousand seven hundred and Thirty-seven, no person should, for hire, gain or reward, act, perform, represent, or cause to be acted, performed or represented, any new Interlude, Tragedy, Comedy, Opera, Play, Farce, or other Entertainment of the Stage, or any part or parts therein, or any new Act, Scene or other part added to any old Interlude, Tragedy, Comedy, Opera, Preamble: 10 G. 2. c. 28.

therefore Enacted; by The (1) *Queen's* most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal,

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Opera, Play, Farce or other Entertainment of the Stage, or any new Prologue or Epilogue, unless a true Copy thereof were sent 2
to the Lord Chamberlain of the King's Household for the time being, Fourteen Days at least before the acting, representing or performing thereof, together with an account of the Playhouse or other place where the same should be, and the time when the same was intended to be first acted, represented or performed, signed by the Master or Manager, or one of the Masters or Managers, of such Playhouse or place, or Company of Actors therein: And whereas also by the said Act, it was further enacted, that from and after the said Twenty-fourth day of June One thousand seven hundred and Thirty-seven, it should and might be lawful to and for the said Lord Chamberlain for the time being from time to time, and when and as often as he should think fit, to prohibit the acting, performing or representing any Interlude, Tragedy, Comedy, Opera, Play, Farce, or other Entertainment of the Stage, or any Act, Scene or part thereof, or any Prologue or Epilogue; and in case any person or persons should, for hire, gain or reward, act, perform or represent, or cause to be acted, performed, or represented, any new Interlude, Tragedy, Comedy, Opera, Play, Farce or other Entertainment of the Stage, or any Act, Scene or part thereof, or any new Prologue or Epilogue, before a Copy thereof should be sent 3
as aforesaid, with such account as aforesaid, or should, for hire, gain or reward, act, perform or represent, or cause to be acted, performed or represented, any Interlude, Tragedy, Comedy, Opera, Play, Farce, or other Entertainment of the Stage, or any Act, Scene or part thereof, or any Prologue or Epilogue, contrary to such prohibition as aforesaid, every person so offending should for every such offence forfeit the sum of Fifty Pounds; and every Grant, License and Authority (in case there be any such), by or under which the said Master or Masters, or Manager or Managers, set up, formed or continued such Playhouse, or such Company of Actors, should cease, determine and become absolutely void, to all intents and purposes whatsoever: And whereas it is expedient that no representation may be admitted on the Stage, whereby the Christian Religion in general, or the Church of England, may in any manner suffer reproach, or any abuse or misrepresentation of sacred characters, tending to expose religion itself and bring it into contempt, but that strict regard may be had to morality and public decorum, whereby such representations may contribute to the support and preservation of order and good government: And whereas also it is expedient to 4
repeal certain parts of the said recited Act;

(1) King's

poral, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the passing of this Act ([1]) *no Theatre, nor House or Place licensed for Music or Dancing, under an Act passed in the twenty-fifth year of his late Majesty King George the Second, intituled, "An Act for the better preventing Thefts and Robberies, and for regulating Places of Public Entertainment, and punishing Persons keeping disorderly Houses," nor House or Place licensed for Music and Dancing, under an Act passed in the twenty-eighth year of his late Majesty King George the Third, intituled, "An Act to enable Justices of the Peace to license Theatrical Representations occasionally under the Restrictions therein contained," shall be opened to the Public* on any Sunday, nor on Ash Wednesday, nor during Passion Week or any part thereof, nor on Whitsun Eve, Christmas Eve or Christmas-day, nor on any day or night specially appointed or set apart for a Public Thanksgiving or Fast, or General Mourning.

1. Performances not to take place on certain days.

([2])

And

([1]) no Interlude, Tragedy, Comedy, Opera, Play, Farce or other Entertainment of the Stage shall or may be acted, represented or performed in the City of Westminster or within the Liberties thereof

2. The Performances authorized by the Patents or Licenses granted to any Theatre may take place at all other times.

([2]) And be it Enacted, That it shall and may be lawful to and for the proprietor or proprietors, manager or managers, lessee or lessees, of any Theatre or Theatres within the said city of Westminster or the liberties thereof, on all other days and nights (other than and except such as are hereinbefore mentioned and expected) to act, represent and perform, or cause, procure or permit to be acted, represented and performed at or in any such Theatre or Theatres with and under the authority, or by virtue of any Letters Patent from His present Majesty, or any of His Royal Predecessors, or a License from the Lord Chamberlain for the time being of His Majesty's Household, all such performances as by their respective Patents or Licenses they are at present authorized, or shall or may at any time or times hereafter be authorized to act, perform or represent, subject nevertheless to the provision contained in the said recited Act passed in the tenth year of the reign of his said Majesty King GEORGE the Second, whereby it was enacted, that a Copy of every new Interlude, Tragedy, Comedy, Opera, Play, Farce or other Entertainment of the Stage, or any new Prologue or Epilogue, should be sent to the said Lord Chamberlain Fourteen Days at least before the acting, representing or performing thereof, together with an account of the Playhouse or other place where the same should be, and the time when the same

was

If Theatres are open on prohibited days, Licenses to be void.

And be it further Enacted, That if any Theatre, or House or Place licensed for Music and Dancing, under the above recited Acts, or either of them, shall be open to the Public on any of the above-mentioned days, the License or Licenses under which the said places are permitted to be opened shall be null and void, and the persons holding the same shall be liable to all the penalties and forfeitures to which they would be liable if the said License or Licenses had never been granted.

5.
Act not to interfere with Rights or Privileges of the Lord Chamberlain.

And be it Enacted, That nothing in this Act contained shall extend, or be construed to extend, to alter, abridge or interfere with any of the rights, powers, privileges or immunities of the Lord Chamberlain for the time being of (1) *Her* Majesty's Household (2) *except as hereinafter provided.*

And

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was intended to be first acted, represented or performed, and signed as hereinbefore mentioned and therein is provided.

3.
Oratorios or other Sacred Entertainments may take place, except on Sundays, Christmas-day and Good Friday.

And be it Enacted, That from and after the passing of this Act, it shall and may be lawful to and for the proprietor or proprietors, manager or managers, lessee or lessees, for the time being of any Theatre or Theatres within the said city of Westminster and the liberties thereof, to act, represent or perform, or cause or procure to be acted, represented or performed, any Oratorio, Selection of Music, or other Sacred Entertainment, on any day or night in the year, other than and except on Sundays, Christmas-day and Good Friday, or on any day or night which shall or may be specially appointed and set apart for a Public Thanksgiving, Fast or General Mourning. 6

4.
Repeal of certain Provisions in recited Act.

And be it Enacted, That so much of the said recited Act as authorizes the Lord Chamberlain to prohibit the acting, performing or representing any Interlude, Tragedy, Comedy, Opera, Play, Farce, or other Entertainment of the Stage, or any Act, Scene or part thereof, or any Prologue or Epilogue, after the same shall have been duly licensed in the manner in the said recited Act provided, and also so much of the said recited Act as inflicts a penalty for the said offence, and enacts that the Grant, License and authority should cease, determine and be void, shall be and the same is hereby repealed.

(1) His

(2) which he has or possesses under or by virtue of any Act or Acts now in force, other than and except so much of the said recited Act as is hereby repealed; and all powers, penalties, provisions, articles, clauses and things contained in the said recited Act of the tenth year of the reign of his said Majesty King George the Second (except 7

6. Public Act.

And be it Enacted and Declared, That this Act shall be deemed and taken to be a Public Act; and shall be judicially taken notice of as such by all Judges, Justices and other persons, in all courts and places whatsoever, without being specially pleaded.

(except as aforesaid) shall continue and be in full force and effect to all intents and purposes as if this Act had not been made.

Theatres Regulation.

A

B I L L,

INTITULED,

AN ACT (1) *for the Regulation of Theatres.*

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(1) to amend an Act of the Tenth Year of His Majesty King George the Second, to explain and amend so much of an Act made in the Twelfth Year of the Reign of Queen Anne, intituled, "An Act for reducing the Laws relating to Rogues, Vagabonds, Sturdy Beggars and Vagrants into one Act of Parliament; and for the more effectual punishing such Rogues, Vagabonds, Sturdy Beggars and Vagrants, and sending them whither they ought to be sent."

Ordered, by The House of Commons, *to be Printed,*
13 *July* 1837.

514.

479

A

BILL

To amend an Act for the Commutation of Tithes in England and Wales.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS an Act was passed in the seventh year of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act for the Commutation of Tithes in England and Wales;" and it is expedient to amend the said Act in certain respects; **BE it Enacted**, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the Tithe Commissioners for England and Wales shall have power, if they shall think fit, to confirm under their hands and seal any instrument of voluntary apportionment, and also any agreement for giving Land instead of Tithes, made according to the provisions of the said Act, to which shall be annexed a Map or Plan agreed to be adopted by a parochial meeting, although they shall not be satisfied of the accuracy of such Map or Plan, or that the several quantities of Land specified in such apportionment or agreement are therein truly stated; but no recital of quantity or admeasurement of Land, nor any Map or Plan annexed to any such confirmed apportionment or agreement, nor any copy thereof, shall be deemed evidence of the quantity of Land referred to therein, or of the accuracy of such Map or Plan, unless the said Map or Plan, as well as the instrument of apportionment, shall be signed by the Commissioners, and sealed with their official seal.

Preamble.

1. Apportionments and Agreements may be confirmed, although the Maps are inaccurate.

A

And

2.
Provision for determining Parochial Boundaries.

And be it Enacted, That *Two-thirds* in value of the Owners of the Lands in any parish or district of which the Tithes are to be commuted, and respecting the boundaries of which any dispute or doubt shall arise, may, by writing under their hands or the hands of their agents, signed at a parochial meeting called for that purpose, according to the provisions of the said Act, in the case of a parochial meeting for making a voluntary agreement for the Commutation of the Tithes of a parish, signify their request to the Tithe Commissioners that the said Commissioners should inquire into and settle such boundaries; and thereupon the said Commissioners, or any Assistant Commissioner specially appointed under their hands and seal for that purpose, shall, by examination of witnesses upon oath (which oath the said Commissioners or Assistant Commissioner are and is hereby empowered to administer), and also using any other powers contained in the said Act, and by such other legal ways and means as they or he shall think proper, inquire into, ascertain and set out the boundaries of that parish or district: Provided always, That such Commissioners or Assistant Commissioner (before they or he proceed to set out the boundaries of such parish or district) shall give public notice of their or his intention, by writing under their or his hands or hand, to be affixed on the most public doors of the churches of that parish or district, and of every parish and district thereunto adjoining, and also by advertisement to be inserted in some newspaper circulated in the county in which such parish or district is situated, and also by writing to be delivered to or left, *Ten* Days at least before the time of setting out such boundaries, at the last or usual place of abode of the respective Landowners, or the respective agents of such Landowners, through or abutting upon whose lands the boundaries of such parish or district are supposed to pass; and such Commissioners or Assistant Commissioner shall, within *One* Month after ascertaining and setting out the boundaries, publish the same by causing a description thereof in writing to be delivered to or left at the place of abode of one of the churchwardens or overseers of the poor of the parish or district of which the boundary shall be so set out, and of every parish or district thereunto adjoining, and also of every Landowner or his agent through or abutting upon whose lands the boundary so set out shall pass.

3.
Appeal.

And be it Enacted, That any person or persons interested in the determination of the said Commissioners or Assistant Commissioner respecting the said boundaries, who shall be dissatisfied with such determination, may appeal to the Court of Quarter Sessions for the county, or other jurisdiction in which such Lands are situate, at any General Quarter Sessions of the Peace to be holden within *Four* calendar Months next after the publication of the said boundaries, by delivering or leaving such description as aforesaid, the party or parties making such appeal giving *Eight* Days' notice of such appeal, and of the matter

thereof,

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thereof, in writing to the said Commissioners; and the decision of the said Commissioners or Assistant Commissioner, or in case of appeal, the decision of the said Court therein, shall be final and conclusive as to the boundaries of such parish or district for all purposes whatsoever, and shall not be removed or removable by Certiorari, or any other writ or process whatsoever, into any of Her Majesty's Courts of Record at Westminster or elsewhere.

4. The Apportionment need not contain the several Amounts of Corn charged on each Estate.

And be it Enacted, That it shall not be necessary to state in any instrument of apportionment the several quantities of wheat, barley and oats charged upon the estate of any Landowner, or upon any portion of such estate included in such apportionment; provided that the whole sum agreed or awarded to be paid by way of Rent-charge instead of the Tithes of the whole parish or district be therein stated, and the whole number of bushels of wheat, barley and oats ascertained to be the fixed quantity of corn of which the variable value is to be paid in money by way of Rent-charge, and also the several sums of money which were, at the time of the confirmation of the apportionment, of equal value with the quantities of wheat, barley and oats apportioned on each estate or each separate portion thereof, according to the provisions of the said Act, be also stated therein.

5. Declaration of the average Price of Corn during Seven Years before Christmas 1835.

And be it Enacted, That the prices at which the conversion from money into corn is to be made, at the time of the confirmation of each apportionment, according to the provisions of the said Act, are Seven Shillings and One Farthing for a bushel of wheat, Three Shillings and Eleven-pence-halfpenny for a bushel of barley, and Two Shillings and Nine-pence for a bushel of oats.

6. Provision for the assessment and recovery of Rates.

And be it Enacted, That all rates and charges to which any Rent-charge payable in lieu of Tithes shall be liable, may be assessed upon the owner of the Rentcharge, and the whole, or any part thereof, may be recovered from any one or more of the Occupiers of the Lands out of which such Rent-charge shall issue, in case the same shall not be sooner paid by the Owner of the Rent-charge upon whom the same shall be assessed, in like manner as any poor-rate assessed on such Occupier or Occupiers in respect of such Lands may be recovered, upon giving to such Occupier *Twenty-one* Days' notice in writing previous to any one of the half-yearly days of payment of the Rent-charge, and the Collector's receipt for the payment of such rates and charges, or of any part thereof, shall be received in satisfaction of so much of the rent-charge by the owner thereof; but no Occupier shall be liable to pay at any one time in respect of such rates and charges any greater sum than the Rent-charge payable by him in respect of the Lands occupied by him in the same parish shall amount to for the current half-year in which such notice shall have been given.

And

7.
Provision for determining Lands chargeable with Rent-charge.

And be it Enacted, That in all cases where the same person or body politic is not entitled to the perception of the whole of the Tithes of any parish, and the liability of the Lands to the payment of Tithes is not in dispute, but the Lands out of which each Tithe owner is entitled to the perception of his portion or parcel of Tithes are not well defined, and also in all cases where such Lands lie dispersedly throughout the parish, it shall be lawful at any time before the confirmation of any apportionment under the provisions of the said Act, for the Landowners and Tithe-owners having any interest in such Lands or Tithes (with the consent of the Diocesan and of the Patron of the living whenever Tithes payable to any Spiritual Person in right of his benefice are in question), to agree, or for the Tithe Commissioners to determine, in case the commutation shall have been made by their award, that the several Rent-charges which shall be made payable in lieu of Tithes to each of the Titheowners respectively shall be fixed and apportioned upon such particular Lands as to them shall seem convenient, so that no Lands are charged with more than their due proportion of Rent-charge, when the determination shall be by the compulsory award of the Commissioners; and every agreement or determination to that effect, when confirmed by the Tithe Commissioners, shall be binding upon and conclusive against all persons and bodies politic, notwithstanding any doubt as to the identity of the Lands out of which the Tithes originally issued in lieu whereof such distinct Rent-charges are made payable.

8.
Provision for the period intervening between the end of former Compositions and the Commutation.

And be it Enacted, That with the first payment of Rent-charge under any Agreement for the Commutation of Tithes shall also be paid any sum which shall be agreed to be paid in consideration of the time (if any) which may intervene between the termination of any previous agreement or composition for the payment of Tithe, and the *First day of January* next following the confirmation of the apportionment, regard being had to the whole annual amount of Rent-charge agreed to be paid, and to the other circumstances of each case.

9.
Parties to a parochial Agreement may make it retrospective from the 1st January.

And be it Enacted, That the parties to a parochial agreement may agree thereby, or by any supplemental agreement, made and confirmed in like manner, that the Lands included in the said agreement shall be discharged from the payment of Tithes (except as excepted in the said Act), from the *First day of January* next preceding the confirmation of the apportionment, instead of the *First day of January* next following the confirmation: Provided always, That in every case the first payment of Rent-charge shall be made and recoverable by the means provided in the said Act on the *First day of July* next following the time from which such Lands are discharged from the payment of Tithes.

And

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10.
Deeds not chargeable with Stamp Duty.

And be it Enacted, That no deed or declaration authorized by the said Act for the commutation, release or merger of Tithes, shall be chargeable with any stamp duty.

11.
Assistant Commissioner may be sworn before Two Justices, or a Master in Chancery.

And be it Enacted, That any Assistant Commissioner appointed to assist in carrying the said Act into execution may take the oath required of him by the said Act, before any *Two* Justices for the county, riding, division, liberty or jurisdiction wherein such Assistant Commissioner shall be resident at the time of his appointment, or before a Master Extraordinary in Her Majesty's High Court of Chancery; and every such oath so taken shall be as valid and effectual as if the same had been taken before one of the Judges of Her Majesty's Court of King's Bench or Common Pleas, or one of the Barons of the Court of Exchequer.

Tithes Commutation Act Amendment.

A

B I L L

To amend an Act for the Commutation of
Tithes in England and Wales.

(Prepared and brought in by
Mr. Poulett Thomson and Lord John Russell.)

Ordered, by The House of Commons, *to be Printed,*
23 *June* 1837.

420.

Tithes Commutation Act Amendment Bill.

AMENDMENTS MADE BY THE LORDS

TO THE

BILL to amend an Act for the Commutation of Tithes in *England* and *Wales*.

Pr. 2. l. 13. After "seal" insert "Provided always, That the Commissioners, in case they shall confirm such voluntary apportionment or agreement, but shall not think proper to seal such map or plan, shall certify under their hands upon some part of such map or plan, that the same is the map or plan referred to in such voluntary apportionment or agreement, as the case may be, which certificate shall be received as evidence of that fact."

Pr. 4. l. 15. Leave out from "pass" to "And" in Pr. 5. l. 16., and insert Clause (A.)

CLAUSE (A.) And be it Enacted, That any person interested in the judgment or determination of the said Commissioners or Assistant Commissioner respecting the said boundaries, who shall be dissatisfied with such determination, may, within Six calendar Months next after the publication of the said boundaries, by delivering or leaving such description as aforesaid, move the Court of Queen's Bench to remove the said judgment by *Certiorari* into the said Court, the party making such application giving Eight Days' notice of such application, and of the matter and ground thereof in writing to the said Commissioners; and the decision of the said Commissioners or Assistant Commissioner, or, in case of removal as aforesaid, the decision of the said Court therein, shall be final and conclusive as to the boundaries of such parish or district for all purposes whatsoever; and after the expiration of the said term of Six calendar Months, the judgment shall not be removed or removable by *Certiorari*, or any other writ or process whatsoever, into any of Her Majesty's Courts of Record at *Westminster*, or elsewhere; and no *Certiorari* shall be allowed to remove any such judgment, unless the party prosecuting the *Certiorari* shall, before allowance thereof, enter into a recognizance before one of the Justices of the said Court in the

sum

sum of Fifty Pounds, with condition to prosecute the same without wilful delay, and to pay to the said Commissioners their full costs and charges, within One calendar Month after the judgment shall be confirmed, to be taxed according to the custom of the Court.

pr. 6. l. 6. After "therein" insert Clauses (B.) and (C.)

Clause (B.) And be it Enacted, That it shall not be necessary to state in any instrument of voluntary apportionment, made in consequence of a parochial agreement, whether the several Lands are then cultivated as arable, meadow or pasture land, or as wood land, common land, or howsoever otherwise, nor to state the amount charged on the several closes of every individual land-owner, if Three-fourths of the land-owners interested in the said apportionment shall, by some writing under their hands, request the Commissioners to direct that such statements be omitted.

Clause (C.) And be it Enacted, That it shall not be necessary for the Commissioners to send a copy of any draft of voluntary apportionment made in consequence of a parochial agreement for the inspection of any parties, nor to hold any meeting to hear any objection thereto, when one land-owner shall be seised either in fee-simple or fee-tail of the whole of the lands that are not glebe lands in such parish.

Pr. 9. l. 15. Leave out from "the" to "regard" in l. 18., and insert "time at which by the said agreement for Commutation, the Lands shall be discharged from the payment of Tithe."

l. 34. & l. 35. After "preceding" insert "or from the first day of April, or first day of July, or first day of October, preceding or following."

Pr. 10. l. 4. Leave out from "the" to "the" in l. 5., and insert "expiration of Six calendar Months from."

At the end of the Bill add Clause (D.)

Clause (D.) And be it Enacted, That this Act shall be taken to be a part of the said Act for the Commutation of Tithes in *England* and *Wales*.

Tithes Commutation Act Amendment Bill.

AMENDMENTS

Made by The Lords

TO THE

BILL to amend an Act for the Commutation
of Tithes in *England* and *Wales*.

Ordered, by The House of Commons, *to be Printed,*
12 *July* 1837.

502.

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A

BILL

For better enabling Her Majesty to confer certain Powers and Immunities on Trading and other Companies.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS divers Associations are and may be formed for trading or other purposes, some of which Associations it would be inexpedient to incorporate by Royal Charters, although it would be expedient to confer on them some of the privileges of and incident to Corporations created by Royal Charters, and also to invest such Associations or some of them with certain other powers and privileges: Preamble.

And whereas it would also be expedient to extend the powers of Her Majesty in reference to the creation of Corporations, and to the conferring of privileges upon Corporations, and upon other bodies or companies enabled to sue and be sued:

And whereas by an Act passed in the sixth year of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act to repeal so much of an Act passed in the sixth Year of his late Majesty King GEORGE the First, as relates to the restraining of several extravagant and unwarrantable practices in the said Act mentioned, and for conferring additional Powers upon His Majesty with respect to the granting of Charters of Incorporation to Trading and other Companies," it was amongst other things enacted, that in any charter thereafter to be granted by His Majesty, his heirs or successors, for the Incorporation of any Company or Body of Persons, it should and might be lawful in and by such Charter to declare

declare and provide that the members of such Corporation should be individually liable in their persons and property for the debts, contracts and engagements of such Corporation to such extent and subject to such regulations and restrictions as His Majesty, his heirs or successors might deem fit and proper, and as should be declared and limited in and by such Charter, and the members of such Corporation should thereby be rendered so liable accordingly:

And whereas by an Act passed in the Session of Parliament held in the fourth and fifth years of the reign of His late Majesty, intituled, "An Act to enable His Majesty to invest Trading and other Companies with the powers necessary for the due conduct of their Affairs, and for the Security of the Rights and Interests of their Creditors," His Majesty, his heirs and successors were empowered to grant to unincorporated Companies and Associations certain privileges in such last-mentioned Act set forth:

And whereas the aforesaid provisions of the said recited Acts have not been found effectual for the purposes thereby intended, and it is therefore expedient to repeal the same, and to make such provisions in reference to the several matters aforesaid as are hereinafter contained:

1.
Repeal of recited Acts.

NOW therefore **BE it Enacted**, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT so much of the said Act of the sixth year of the reign of his Majesty King GEORGE the Fourth as is hereinbefore set forth, and also the said recited Act of the Session of Parliament held in the fourth and fifth years of the reign of His late Majesty King WILLIAM the Fourth, shall be and they are hereby respectively Repealed.

2.
Privileges may be granted by Letters Patent to persons associated for trading or other purposes.

And be it Enacted, That it shall and may be lawful for Her Majesty, Her heirs and successors, by Letters Patent to be from time to time for that purpose issued under the Great Seal of the United Kingdom of Great Britain and Ireland, or in Scotland under the seal appointed by the Articles of Union to be used instead of the Great Seal thereof, to grant to any Company or body of persons associated together for any trading or other purposes whatsoever, and to the heirs, executors, administrators and assigns of any such persons, although not incorporated by such letters patent, any privilege or privileges which, according to the rules of the common law, it would be competent to Her Majesty, Her heirs and successors to grant to any such Company or body of persons in and by any charter of incorporation.

3. Suits may be carried on in the name of one of the Officers of any Company to whom Letters Patent are granted.

And be it Enacted, That in any such letters patent so to be granted as aforesaid by Her Majesty, Her heirs or successors, to any such Company or body of persons so associated together as aforesaid, but not incorporated, it shall and may be lawful, in and by such letters patent, in, expressly, or by a general or special reference to this Act, to provide and declare that all suits and proceedings, whether at law or in equity, or in bankruptcy or sequestration, as well in Great Britain and Ireland as in the Colonies and dependencies thereof, by or on behalf of such Company or body, or any person or persons as trustee or trustees for such Company or body, against any person or persons, whether bodies politic or others, and whether members or not of such Company or body, shall be commenced and prosecuted in the name of *One* of the *Two* officers for the time being to be appointed to sue and be sued on behalf of such Company or body, and registered in pursuance of the directions of such appointment and registration respectively hereinafter contained; and that all suits and proceedings, whether at law or in equity, by or on behalf of any person or persons, whether bodies politic or others, and whether or not members of such Company or body, against such Company or body, shall be commenced and prosecuted against one of such officers; or if there shall be no such officer for the time being, then against any member of such Company or body: Provided nevertheless, That nothing in this Act or in such letters patent contained or to be contained shall prevent the plaintiff from joining any member of such Company or body with such officer as a defendant in equity, for the purpose of discovery, or in case of fraud.

4. Indictments to be preferred in the name of an Officer of the Company.

And be it Enacted, That it shall also be lawful, in and by such letters patent, either expressly or by a general or special reference to this Act, to provide and declare that all indictments and other criminal proceedings, as well in Great Britain and Ireland as in the Colonies and dependencies thereof, by or on behalf of such Company or body, or of any person or persons as trustee or trustees for such Company or body, against any person or persons whomsoever, whether bodies politic or others, and whether members or not of such Company or body, shall be preferred or commenced and prosecuted in the name of one of such officers.

5. Individual liability of Members of a Company may be restricted by Letters Patent.

And be it Enacted, That it shall and may be lawful, in and by such letters patent so to be granted to any such body or Company as aforesaid, to declare and provide that the members of such Company or body so associated as aforesaid shall be individually liable in their persons and property for the debts, contracts, engagements and liabilities of such Company or body, to such extent only per share as shall be declared and limited in and by such letters patent; and the members of such Company or body shall accordingly be individually liable for such debts, contracts, engagements and liabilities respectively to such extent only per share as in such letters patent shall be declared and limited; such liability nevertheless to be enforced in such manner and subject to such provisions as are hereinafter contained.

6.
Deed of partnership to be executed.

And be it Enacted, That every such Company or body to which any such privileges or powers as hereinbefore mentioned shall be granted under the authority of this Act, shall be entered into or formed by a deed of partnership or association, or an agreement in writing of that nature; and the undertaking shall by such deed or agreement be divided into a certain number of shares to be there specified; and in such deed or agreement, or in some Schedule thereto, there shall be set forth the name or style of the said Company or body, the names or styles of the members of the said Company or body, the date of the commencement thereof, the business or purpose for which the said Company or body is formed, and the principal or only place for carrying on such business; and in such deed or agreement there shall also be contained the appointment of *Two* or more officers to sue or be sued on behalf of such Company or body in manner hereinafter mentioned.

7.
Return to be made to the Enrolment Office of Court of Chancery of the granting of Letters Patent, and style of Company.

And be it Enacted, That such Company or body as aforesaid shall, within *Three* calendar Months after the grant of such letters patent as aforesaid, make or cause to be made a return to the Enrolment Office of the Court of Chancery, containing the date of the grant of such letters patent as aforesaid, the name or style of the said Company or body, the business or purpose for which the said Company or body is formed, the principal or only place for carrying on such business; the total number of shares in the said Company or body (and each of which shares is to be distinguished by a separate number in regular succession); the amount to which each share shall render the holder thereof liable; the names and (except as to bodies politic) the places of abode of all the members thereof, and the distinctive number or numbers of the share or respective shares which each member holds; and such Company or body shall also at the same time make a return of the names and descriptions of the officers appointed by such Company or body to sue and be sued on behalf thereof in manner aforesaid; such return to be made in the Form in the Schedule (A.) to this Act annexed.

8.
Name of Company not to be changed after registry. If place of business

And be it Enacted, That during the continuance of any such Company or body after it shall have been so registered, no change shall be made in the name or style thereof; and if the principal or only place for carrying on the business of the said Company or body shall be changed, the said Company or body shall, within *Three* calendar Months after such change, make or cause to be made a Return to the said office as aforesaid of such change in the Form in Schedule (B.) to this Act annexed.

changed, change to be registered.

9\.
When persons cease to be members of Company or Corporation, except by transfer of shares, or of change of name of member, Company to make return within Three Months.

And be it Enacted, That in case any person shall cease to be a member of such Company or body (except by means of the transfer by deed or writing of any share therein), or in case of the addition of any person thereto (except by means of the transfer of any share as aforesaid), or of the change of the name of any member thereof by marriage or otherwise, the said Company or body shall, within *Three* calendar Months after information shall be received by the said Company or body of any person so ceasing as aforesaid, or of such change or addition as aforesaid, make or cause to be made a Return to the said office as aforesaid, containing the names and places of abode of all persons having ceased to be members thereof (except as aforesaid), and the names and places of abode of all persons having become members thereof (except as aforesaid), and specifying any change in the name of any member thereof by marriage or otherwise; such return to be made in one of the Forms in the Schedule (C.) to this Act annexed, as the case may be.

10\.
On transfer of shares, notice to be given to Company or Corporation by transferee.

And be it Enacted, That on the transfer by deed or writing of any share in any such Company or body as aforesaid, a notice in writing, specifying the date of such transfer, the distinguishing number of the share transferred, the name and (except in the case of a body politic) the place of abode of the person by whom or on whose behalf, and of the name and (except as aforesaid) the place of abode of the person to whom such transfer is made, shall be given to the said Company or body, by leaving the transfer when extended by both parties, or some note or memorandum thereof signed by them, at the principal or only office of the said Company or body.

11\.
Company or Corporation to make return within Three Months after receiving notice of transfer.

And be it Enacted, That in case of the transfer of any share in such Company or body, the said Company or body shall, within *Three* calendar Months after receiving such notice as aforesaid of such transfer, make or cause to be made a return to the said office as aforesaid, containing the date of such transfer, the distinguishing number of the share transferred, the name and (except in the case of a body politic) the place of abode of the person by whom or on whose behalf such transfer is made, and of the person to whom such transfer is made, in the Form in Schedule (D.) to this Act annexed; and such Company or body are hereby required, on the request in writing of either of the parties, forthwith to make such return accordingly.

12\.
Persons having made any payment in respect of any share in

And be it Enacted, That it shall be lawful for any person who shall or may from time to time have advanced or paid any sum in a Company under any judgment against such Company, to make a return thereof to Court of Chancery.

in consequence or by virtue of any execution or diligence issued against him, in respect of any share in the said Company or body, under any judgment, decree, interlocutor or order to be obtained against any officer of the said Company or body, or any member thereof, in manner hereinafter mentioned, to make a return thereof to such office as aforesaid in the Form in Schedule (E.) to this Act annexed; and every such return shall be accompanied with a proper voucher or vouchers of the fact of such payment, without which the same shall not be registered as hereinafter mentioned.

13. Company to make return when repayment is made of money so advanced by any person.

And be it Enacted, That if any sum or sums shall at any time be repaid by the said Company or body in respect of any such sum which may have been so advanced or paid by virtue of such execution or diligence, the said Company or body shall forthwith make or cause to be made a return to such office as aforesaid, specifying the amount of such repayment, in the Form in Schedule (F.) to this Act annexed.

14. On death, resignation or removal of officer appointed to sue and be sued on behalf of Company or body, another to be appointed, and return made.

And be it Enacted, That in case of the death or resignation or removal of any officer appointed to sue and be sued on behalf of such Company or body, the said Company or body shall forthwith appoint in his stead another officer to sue and be sued on behalf of such Company or body, and shall, within *Three* calendar Months after the death, resignation or removal of such officer as aforesaid, make or cause to be made a return to the said office as aforesaid, containing as well the name and description of the person who has ceased to be such officer in manner aforesaid, as the name and description of the officer who has been appointed to sue and be sued on behalf of such Company or body; such return to be made in the Form in Schedule (G.) to this Act annexed.

15. Returns how signed and verified,

And be it Enacted, That all returns to be made in manner aforesaid by such Company or body shall be signed by one of such officers, and shall be verified by a declaration of such officer made pursuant to the provisions of the statute of the fifth year of His present Majesty's reign, intituled, "An Act to repeal an Act of the present Session of Parliament, intituled, 'An Act for the more effectual Abolition of Oaths and Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof; and for the more entire suppression of Voluntary and Extrajudicial Oaths and Affidavits, and to make other provisions for the Abolition of unnecessary Oaths,'" except that if there shall be no such officer, or such officer shall refuse to act, then such return shall be signed and verified as aforesaid by some member of the said Company or body.

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16. Return of names of members, &c. not to be rendered invalid by unintentional error.

And be it Enacted, That any return to be made in manner aforesaid of the name or place of abode of any original member of such Company or body, or of any person to or in whom any share in such Company or body shall be transferred or become vested, shall not be rendered invalid for the purposes of this Act by any error or omission in the same, if the said Company or body shall, within *One* calendar Month after information of such error or omission shall be received by such Company or body, cause a correct return to be made to the said office as aforesaid in the Form in Schedule (F.) to this Act annexed: Provided always, That this clause shall not invalidate or prejudice any intermediate transaction or matter whatsoever which shall have bonâ fide taken place or proceeded upon the faith of such erroneous or defective return; nor shall the benefit of this clause extend to any error or omission which shall be fraudulent.

17. Returns to be enrolled.

And be it Enacted, That all such returns as hereinbefore are mentioned shall be registered by the clerks of enrolments in Chancery or their deputy in books to be kept by them for that purpose, and that an alphabetical index shall be kept of the names of such Companies or bodies with references to such returns, and that there shall be paid for the registering of each return a fee of *Sixpence* per folio and no more; and that any person shall be at liberty to inspect such books and index, and that there shall be paid for such inspection a fee of *One Shilling* and no more, and that any person shall be at liberty to require a copy of any such return to be certified by the said clerks or their deputy, and that there shall be paid for such certificate a fee of *One Shilling and Sixpence* for each folio of such copy, and no more; and the day of the registration of every return to be made in pursuance of this Act shall be written on such return by the said clerks or their deputy.

18. Certified copy of such return, &c. to be received in evidence.

And be it Enacted, That a copy so certified as aforesaid of such return, including the date to be marked on such return, shall be received in evidence in all proceedings whether civil or criminal, and shall also be received as evidence of the day of the registering thereof.

19. Lord Chancellor, Lord Keeper and Master of the Rolls to make regulations as to keeping registry.

And be it Enacted, That the Lord Chancellor, Lord Keeper or First Lord Commissioner of the Great Seal, and the Master of the Rolls for the time being, may jointly make such orders and directions as to the mode of keeping the said register of the returns to be made in pursuance of this Act, and of making the index thereof, and of any other matters incidental thereto, as they may from time to time think fit.

20. No person entitled to share in profits till registered as a member.

And be it Enacted, That no person becoming a member of any such Company or body by the transfer of any share therein or otherwise shall be entitled to sue for or recover any share of the profits thereof, unless and until a return of the transfer or other fact whereby he shall so become a member shall be registered pursuant to the provisions hereinbefore contained.

21.
Person ceasing to be member to continue liable to third persons till transfer, &c. registered.

And be it Enacted, That any person ceasing to be a member of any such Company or body, whether by the transfer of any share therein or by death or otherwise, shall be considered for all purposes of liability as continuing a member of such Company or body until a return of the transfer or other fact whereby he shall have so ceased to be a member shall be registered pursuant to the provisions hereinbefore contained.

22.
Proceedings commenced in the name of officer not to be abated by his death, &c. or by change of members of Company.

And be it Enacted, That no action, suit or proceeding, whether civil or criminal, commenced either by or against any such Company or body (whether in the name of one of the officers appointed to sue and be sued as aforesaid, or of some member of such Company or body in the case and in manner aforesaid), shall be abated or prejudiced by the death or by any act of such officer or person, or by the resignation or removal of such officer, either before or after the commencement of such action, suit or proceeding, or by any change in the members of such Company or body by the transfer of shares or otherwise, but that the same shall be continued in the name of such officer or member (as the case may be) notwithstanding such death or act, or such resignation or removal, and notwithstanding such change in the members of such Company or body.

23.
Evidence of officer and member of Company or Corporation admissible.

And be it Enacted, That in all such actions, suits and other proceedings, whether civil or criminal, the evidence of any such officer as aforesaid, or of any member of such Company or body, shall be admissible in the like manner as if such officer or member were not an officer or member of such Company or body.

24.
Judgments against Company.

And be it Enacted, That all judgments, decrees, interlocutors and orders obtained in any such actions, suits or other proceedings as aforesaid against such officer or member in manner aforesaid, whether such member or officer respectively be party to such actions, suits or proceedings as plaintiff, pursuer, petitioner, or defendant or defender, shall have the same effect against the property and effects of such Company or body, and also (to the extent hereinafter mentioned) against the persons, property, and effects of the individual existing or former members thereof respectively, as if such judgments, decrees, interlocutors or orders had been obtained against such Company or body in suits or proceedings to which all the persons liable as existing or former members of such Company or body had been parties, and that execution or diligence, or executions

tions or diligences, shall be issued thereon accordingly; Provided nevertheless, That where the extent per share of the liability of the individual members shall have been limited by any letters patent as aforesaid, no such execution or diligence shall be issued against any such individual existing and former member of such Company or body as aforesaid for a greater sum than the residue, if any, of the amount for which, by virtue of such letters patent as aforesaid, such individual member shall be liable in respect of the share or shares then or theretofore held by him, whether in the said Company or body, after deducting therefrom the amount, if any, which shall appear by such register as aforesaid to have been advanced and paid in respect of such shares or any of them by himself or herself, or any previous or subsequent holder of the same shares or any of them, or the representatives of any such holder under or by virtue of any former execution or diligence, and not repaid at the time of issuing such subsequent execution or diligence.

25. Bankruptcy of officer of Company not to affect Company or liabilities of members.

And be it Enacted, That the bankruptcy, insolvency or stopping payment of any officer or member of such Company or body in his individual capacity shall not be construed to be the bankruptcy, insolvency or stopping payment of such Company or body, and that the property and effects of such Company or body, and the persons, property and effects of the individual members or other individual members thereof (as the case may be), shall, notwithstanding such bankruptcy, insolvency or stopping payment, be liable to execution or diligence in the same manner as if such bankruptcy, insolvency or stopping had not taken place.

26. Service of notice on the Company.

And be it Enacted, That in all cases wherein it may be necessary for any person to serve any summons, demand or notice, or any writ or other proceeding at law or in equity or otherwise, upon the said Company or body, service thereof respectively on the clerk of the said Company or body, or by leaving the same at the head office for the time being of the said Company or body, or in case such clerk of the said office shall not be found or known, then service thereof on an agent or officer employed by the said Company or body, or by leaving the same at the usual place of abode of such agent or officer, shall be deemed good and sufficient service of the same respectively on the said Company or body.

27. Service of notice by the Company.

And be it Enacted, That in all cases wherein it may be necessary for the said Company or body to give any summons, demand or notice of any kind whatsoever to any person or corporation under the provisions or directions contained in this Act, such summons, demand or notice may be given in writing, signed by the clerk, attorney or solicitor for the time being of the said Company or body, without being required to be under the common seal of the said Company or body.

28.
Determination of Company not to prevent winding up affairs of the same.

And be it Enacted, That in case of the determination of such Company or body, such Company or body shall nevertheless be considered as subsisting, and to be in all respects subject to the provisions of this Act, so long and so far as any matters relating to such Company or body shall remain unsettled, to the end and intent that such Company or body may do all things necessary to the winding up of the concerns thereof, and that it may be sued and sue under the provisions of this Act in respect of all matters relating to such Company or body.

29.
A portion of the powers and privileges granted by Letters Patent may be conferred if Her Majesty thinks fit.

And be it Enacted, That it shall be lawful for Her Majesty, Her heirs and successors, by any such letters patent as aforesaid, to confer, impose and require the performance of any one or more of the powers or privileges, liabilities and duties respectively hereby authorized to be conferred, imposed or required, without conferring, imposing or requiring the performance of the other or others of them respectively, at the discretion of Her Majesty, Her heirs and successors.

30.
Duration of Charters of Incorporation may be limited.

And be it also Enacted, That it shall be lawful for Her Majesty, Her heirs and successors, in any charter of incorporation to be hereafter granted, to limit the duration thereof for any term or number of years, or for any other period whatsoever, and also in any charter of incorporation (whether in perpetuity or for any term or period), either by reference to this Act or otherwise, to make the corporation thereby formed, and the officers and members thereof, subject to all or any of the provisions, liabilities and directions hereinbefore authorized to be imposed on or required from any incorporated company or body, or its officers or members, and also to confer on such corporation or its members and officers all or any of the powers or privileges hereinbefore authorized to be conferred on any incorporation, company or body, or its officers or members; and all the powers, provisions, clauses, matters and things hereinbefore contained in reference to incorporated companies or bodies shall accordingly in such case, and so far as the same may be applicable, be considered to belong and apply to such corporation.

31.
Act not to authorize granting privileges derogative of privileges now enjoyed by Act of Parliament.

Provided always, and be it Enacted, That nothing in this Act contained shall authorize or be construed to authorize the grant to any company or body of persons of any privilege in derogation of any exclusive privileges now enjoyed by any company or corporation under any Act or Acts of Parliament.

And

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32.
Notice of application for Letters Patent to be inserted in the London Gazette.

And be it Enacted, That whenever an application shall be made to Her Majesty to grant letters patent or a charter of incorporation to any company or body of persons associated together for any purpose of trade, and such application shall have been referred by Her Majesty to the Committee of Privy Council for Trade and Plantations, then before any report shall be made to Her Majesty, and before any such letters patent or charter shall be granted, notice of such application shall be inserted by the parties applying *Three* several times in the London Gazette, at intervals of not less than *One* Week.

SCHEDULES to which this ACT refers.

SCHEDULE (A.)

RETURN made pursuant to Statute Vict.

Date of Letters Patent.	Name of Company or Body.	Business or Purpose.	Place [or, principal Place, if more than one] of Business.	Total Number of Shares.	Liability in respect of each Share.

[Names and Places of Abode of all the Members, and the distinctive Number of Shares which each of them holds.]

[Names and Descriptions of the Officers appointed to sue and be sued on behalf of the Company or Body.]

I, (one of the above-named officers) do solemnly and sincerely declare that the above is a true Return; and I make this solemn declaration conscientiously, believing the same to be true, and by virtue of the provisions of an Act made and passed in the fifth year of the reign of His late Majesty, intituled, "An Act," &c.

Dated this day of 18 .

[Declared, &c.] [Signature.]

SCHEDULE (B.)

RETURN made pursuant to Statute Vict.

CHANGE OF PLACE OF BUSINESS.

Name of Company or Body.	Business or Purpose.	Former Place [or, principal Place, if more than one] of Business.	Present Place [or principal Place] of Business.

I, [&c. as before.]

[Date.] [Signature.]

[ ]

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SCHEDULE (C.)

RETURN made pursuant to Statute Vict.

CHANGE OF MEMBERS.

Name of Company or Body.	Business or Purpose.	Place [or, principal Place, if more than one] of Business.

[Names and Places of Abode of all Persons having ceased to be Members (except by Transfer of Shares) since the last Return. Dated the day of .]

[Names and Places of Abode of all Persons who have become Members (except by Transfer of Shares) since the last Return. Dated the day of .]

[Former Names and Places of Abode of Persons whose Names have been changed.]

[Present Names and Places of Abode of Persons whose Names have been changed.]

I, [&c. as before.]

[Date.]

[ ] Signature .

SCHEDULE (D.)

RETURN made pursuant to Statute Vict.

TRANSFER OF SHARES.

Name of Company or Body.	Business or Purpose.	Place [or, principal Place, if more than one] of Business.

Name and Place of Abode of Person by whom Transfer is made.	Name and Place of Abode of Person to whom Transfer is made.	The Distinctive Numbers of the Shares Transferred.	Date of Transfer.

SCHEDULE (E.)

RETURN made pursuant to Statute Vict.

PAYMENT TO INDIVIDUAL MEMBER.

Name of Company or Body.	Business or Purpose.	Place, [or Principal Place, if more than one] of Business.

Name and Place of Abode of individual Member.	Distinctive Number of Shares in respect of which Payment is made.	Sum paid in respect of each Share.	Total Amount paid under Exemption or Diligence.

SCHEDULE (F.)

RETURN made pursuant to Statute Vict.

REPAYMENT TO INDIVIDUAL MEMBERS.

Name of Company or Body.	Business or Purpose.	Place, [or principal Place, if more than one] of Business.

Name and Place of Abode of individual Member.	Distinctive Numbers of Shares in respect of which Repayment is made.	Sum repaid in respect of each Share.	Total Amount repaid to individual Member.

SCHEDULE (G.)

RETURN made pursuant to Statute Vict.

CHANGE OF OFFICER.

Name of Company or Body.	Business or Purpose.	Place, [or principal Place, if more than one] of Business.

[Name and Description of the Person who has ceased to be an Officer to sue and be sued on behalf of the Company or Body since the last Return. Dated .]

[Name and Description of the Officer appointed to sue and be sued on behalf of the Company or Body since the last Return. Dated .]

I, [&c. as before.]

[Date.] [Signature.]

SCHEDULE (H.)

RETURN made pursuant to Statute Vict.

CORRECTED RETURN.

[Copy of former incorrect Return.]

(Copy.)

Amended Return with correct names and descriptions [in such of the preceding Forms as are applicable to the case under the provisions of the foregoing Act.]

Letters Patent.

A

BILL

For better enabling Her Majesty to confer certain Powers and Immunities on Trading and other Companies.

(*Prepared and brought in by*
Mr. Poulett Thomson and Mr. Attorney General.)

Ordered, by The House of Commons, *to be Printed,*
27 *June* 1837.

432.

A

BILL

To amend the Laws regarding the Trusts of Turnpike Roads in that part of Great Britain called England.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble.

1. Appointment of Board.

WHEREAS great expense and inconvenience have arisen from the present state of the law regarding the management and maintenance of Turnpike Roads in that part of Great Britain called England, and it is expedient that power should be given to consolidate the Trusts of such Turnpike Roads; BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the Magistrates in Quarter Sessions assembled, or the major part of them, shall in each county in England have the power, by any writing under their hands, to appoint not less than *Three* or more than *Five* in number of their body, or others, to act as a Board for carrying this Act into execution in their respective counties, which Board may be styled "The Board of Turnpike Trusts;" and every person or persons who shall be so appointed is and are hereby vested with the same powers and authorities as if he or they had been named in this present Act, and had been thereby appointed a Commissioner or Commissioners for carrying this Act into execution.

2. Examination of Persons.

And be it Enacted, That it shall be lawful for the said Board to delegate to any *One* or more persons such of the powers and authorities hereby given to the said Board (except the power to unite, dissolve, add to or take from the Turnpike Trusts) as the said Board shall think fit; and the powers and authorities so delegated, and the delegation thereof, shall be notified in such manner, and such powers and authorities shall be exercised at such places, for such periods and under such circumstances, and subject to such regulations, as the said Board shall direct; and the said Board may at any time revoke, recall, alter or vary all or any of the powers and authorities which shall be so delegated as aforesaid; and notwithstanding the delegation thereof, may act as if no such delegation had been made; and such officer or officers appointed by the said Board may and is and are hereby empowered to summon before him or them such persons as he or they may think necessary for the purpose of being examined upon any question or matter relating to the management and maintenance of the Turnpike Roads, or to the funds thereof, or for the purpose of producing and verifying by declaration (which declaration such officer or officers is and are hereby authorized to take and receive), any books, contracts, agreements, accounts, writings, plans, maps, papers and documents, or copies of the same, in anywise relating to such question or matter as such officer or officers may think fit, but so as no such person shall be required, in obedience to any such summons, to go or travel more than *Twenty* Miles from the place of his abode; and all summonses and orders made by any such officer or officers in pursuance or exercise of such delegated powers and authorities shall be obeyed, performed and carried into effect by all persons as if such summons or order had been the summons or order of the said Board, and the breach, non-observance or non-performance thereof shall be punishable in like manner.

3.
Persons giving false evidence, refusing to attend, &c. guilty of Misdemeanor.

And be it Enacted, That if any person, upon any examination under the authority of this Act, shall wilfully and corruptly give false evidence, or shall subscribe a false declaration, or if any person shall wilfully refuse to attend in obedience to any summons of the said Board, or of such officer or officers as last aforesaid, or shall wilfully refuse to give evidence, or shall wilfully alter, suppress, conceal, destroy or refuse to produce any books, contracts, agreements, accounts, writings, plans, maps, papers and documents, or copies of the same respectively, which may be so required to be produced before the said Board, or such officer or officers, every person so offending shall be deemed guilty of a *Misdemeanor*.

4.
Reasonable expenses of Witnesses to be paid, and by whom.

And be it Enacted, That it shall be lawful for the said Board to order and allow such expenses of witnesses, and of or attending the production of any books, contracts, agreements, accounts, writings, plans, maps, papers and documents, or copies thereof, to or before the said officer or officers as last aforesaid, as such Board may deem reasonable to be paid, as follows; (that is to say) out of the funds of the Turnpike Trust, which, in the opinion of the said Board, shall be interested or concerned in such attendance or production respectively, in all cases in which such witnesses shall not go or travel more than *Twenty* Miles; and in all other cases the expenses so ordered or allowed shall be deemed as part of the incidental expenses attending the execution of this Act, and be paid accordingly, or to compensate for any loss incurred by persons deprived of their situations by any alteration made under this Act, in the consolidation of Turnpike Trusts or otherwise.

5. Turnpike Trusts may be united by Board.

And be it Enacted, That it shall be lawful for the said Board, by order, to declare so many Turnpike Trusts as they may think fit to be consolidated and united, for the purpose of the management and maintenance of the Turnpike Roads in such Trusts, or for the purpose of the management and maintenance of such Turnpike Roads and of the funds thereof, and with such restrictions and limitations as to the said Board may seem meet and reasonable; and such Trusts shall thereupon be deemed a consolidation or union accordingly.

6. Copy of order for consolidation to be sent to each Trust, and deposited with Clerk of the Peace.

And be it Enacted, That a copy of the said order for the consolidation of such Turnpike Trusts as aforesaid shall be sent to the Clerk of each Turnpike Trust so consolidated, and also to the Clerk of the Peace of each county, riding, division, district or liberty, in which any of the Roads comprised within the said Trusts may be situate; and the said Clerk of the Peace shall and is hereby required, upon the receipt of such order, to file the same with the records of the said county, riding, division, district or liberty.

7. Power to dissolve, add to or take from any consolidated Trust.

And be it Enacted, That it shall be lawful for the said Board from time to time, as they may see fit, by order, to declare any consolidation of Turnpike Trusts to be dissolved, or any Turnpike Trust or Trusts, specifying the same to be separated from or added to any such consolidation, and, as the case may be, such consolidation shall thereupon be dissolved, or such Turnpike Trust or Trusts shall thereupon be separated from or added to such consolidation accordingly; and every such consolidation shall, after any such alteration, be constituted, managed and governed as if the same had been originally formed in such altered state; and in case any such consolidation shall be wholly or partially dissolved as aforesaid, then the Turnpike Trusts constituting, or, in case of partial dissolution, separated from any such consolidation, shall thenceforth be subject to be reunited or united with other Turnpike Trusts, or otherwise dealt with, according to the provisions of this Act, as the said Board shall think fit, provided such consolidation or dissolution be approved by the Magistrates in Quarter Sessions assembled, or the majority of them.

8.
Constitution and election of Trustees for consolidated Trusts.

And be it Enacted, That where any Turnpike Trusts shall be consolidated and united, a number of Trustees shall be constituted and elected by and from the persons who, at the time of such consolidation being made, were the Trustees of such Trusts so consolidated; and the said Board shall determine the mode of election, the number of the Trustees to be elected in each consolidation, and also the number of Trustees to be elected for any one or more of such Trusts so consolidated; and such Trustees shall have, use and exercise over each of the Trusts so consolidated and united the same powers and authorities as the Trustees acting under any local Act, or otherwise, had over the same previous to such consolidation and union; and in case of the death, refusal to act, or disqualification of any of the said Trustees of such consolidated Trust, it shall be lawful for the surviving or remaining Trustees from time to time to elect and appoint one other fit person duly qualified to be a Trustee of a Turnpike Road, and who shall reside in a parish through which the Roads, or some portion thereof, comprised in the Turnpike Trusts for which the Trustee so dying, refusing to act, or becoming disqualified, had acted, shall pass, in the room of every Trustee so dying, refusing to act, or becoming disqualified, provided that notice of the time and place of meeting of the Trustees for every such election be given by the clerk to such consolidated Trusts, by inserting such notice *Two* Weeks consecutively in one or more of the newspapers circulated in that part of the county where such Roads shall pass, within *Twenty-one* Days before every such meeting, provided that no such meeting shall be holden until the period of *Seven* Days clear shall have elapsed from the second insertion of such notice.

For appointing new Trustees on vacancies.

Notice to be given before meeting.

9.
Justices of the Peace to be added to Trustees.

And be it Enacted, That all His Majesty's Justices of the Peace, also Guardians of Unions, for the time being, acting for and residing within the division through which any Turnpike Road in any Trust which shall be consolidated or united under and by virtue of this Act shall pass, shall be added to and joined with the Trustees of such Trusts so consolidated; and every such Justice of the Peace, as well as every person who shall be so elected and appointed a Trustee as aforesaid, in the room of any Trustee dying, refusing to act or becoming disqualified, shall and may act with the surviving and remaining Trustees in the execution of this Act, and of the several powers and authorities vested in the said Board of Trustees, as if he had been elected one of the original Trustees of such Board.

10.
Trustees of consolidated Trusts not to act, except at a Board.

And be it Enacted, That no Trustee of any such consolidated Trust as aforesaid shall have power to act in virtue of such office, except as a member and at a meeting of such consolidated Trust, and no act of any such meeting shall be valid unless *Three* members shall be present and concur therein.

And

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11. Board may suspend Orders made after 25th March 1838, for the management, maintenance of Turnpike Roads, &c. when Trusts are consolidated.

And be it Enacted, That the said Board may and are hereby authorized, by order under their hands and seals, to suspend the carrying into effect any order, resolution or regulation which may from and after the *Twenty-fifth* day of *March*, in the year of our Lord *One thousand eight hundred and Thirty-eight*, be made by the Trustees of any Turnpike Trust or consolidated Trusts, and that all such orders of the said Justices for that purpose shall be sent to the Clerk of such Turnpike Trust or consolidated Trusts to which they apply.

12. Trustees of consolidated Trusts to appoint Officers, and amount of security to be taken.

And be it Enacted, That it shall be lawful for the said General Surveyor or Surveyors from time to time as he or they shall see fit, to direct the Trustees of any consolidated Trusts to appoint Officers, with such qualifications as the said Board shall think necessary, for superintending or assisting in the management and maintenance of the Turnpike Roads in such consolidated Trusts, and the funds thereof, and for examining, auditing, allowing or disallowing of the accounts of such consolidated Trusts, and otherwise carrying the provisions of this Act into execution; and the said Board may and they are hereby empowered to fix and determine the amount and nature of the security to be given by such of the said Officers as the said Board shall think ought to give security, and the salaries payable to such Officers shall be chargeable upon and payable out of the funds of such consolidated Trust, or of each of the said Turnpike Trusts respectively, in the manner and proportions fixed by the said Board; and all such payments shall be valid and shall be allowed in the accounts of the Trustees or Treasurer paying the same: Provided always, That the amount of such salary may from time to time be regulated by the said Justices; and that no Officer appointed by the Trustees of any Turnpike Trust or consolidated Trusts shall be dismissed or removed from his office without the concurrence of the said Board, in writing under their hands and seal; and further, the Board, if deemed expedient, to have the accounts of the several Trusts audited by the Auditors appointed under the new Poor Law Act (to whom adequate compensation may be made by order of the Board) previously to such accounts being passed by the Board.

13. Power of Mortgagees, &c. to compound.

And be it Enacted, That it shall and may be lawful to and for the Trustees of any consolidated Trusts, by and with the consent in writing under the hands and seal of the said Board, to compound with any persons entitled to any sums of money secured by mortgage, bond or otherwise, under or by virtue of any of the Acts then in force relating to either of the Turnpike Trusts so consolidated, or under or by virtue of the General Turnpike Acts; and if any person entitled to any such sum of money shall be an infant or person of non-sane memory, or when any such sum of money, by reason of any will or settlement or otherwise, shall be vested in any executor or administrator, or infant, or shall not belong absolutely to any one individual, then and in either of the said cases the guardian or guardians of such infant, or the committee or committees of such person of non-sane memory, or such executor or administrator, or the person entitled to the first life-interest, as the case may be, shall be and are hereby authorized to enter into such composition, and to give a legal and valid discharge to the said Trustees for the money so secured as aforesaid.

14.
Board to ascertain amount of Sums due on credit of Tolls under former Acts, and if necessary, to advertise for particulars of such claims.

And be it Enacted, That the Trustees of each Turnpike Trust, and also of each consolidated Trust, shall cause an account to be taken of all principal sums of money due or secured by way of mortgage, or by means of bonds or otherwise, on the credit of the tolls or rates by the several Acts relating to any such Turnpike Trusts or consolidated Trusts respectively authorized to be taken or levied, distinguishing the amount due from each such Trust; and if the said Trustees shall deem it necessary for that purpose, shall cause advertisements to be inserted *Four* successive times in some one or more newspapers published in the county in which the Roads constituting such Trusts respectively may pass, requiring all persons claiming to be entitled to any sum or sums of money charged by way of mortgage, or by means of bonds or otherwise on the said tolls so authorized to be collected by the said several Acts, to send in to the said Trustees, or to some person or persons to be appointed by them in that behalf, on or before a day to be named in the said advertisement, such day being at least *Thirty* Days before the day hereinafter fixed for declaring such option as hereinafter mentioned, and not being sooner than *Three* Months from the date and time of insertion of the first of such advertisements, the particulars of their respective claims, in order that the same may be examined.

15.
Persons having security on Tolls, to have their option of being paid off, or of receiving Composition or Security under this Act.

And be it Enacted, That the persons entitled to any sums of money secured by mortgage, bonds or otherwise, under or by virtue of the General Turnpike Acts, or of either of the several Acts, relating to the Trusts consolidated by order of the said Board, for the purposes of the management and maintenance of the Roads and of the funds thereof, shall have the option either to have the money so secured, together with all interest due thereon, forthwith paid off and discharged, or to receive a composition in full discharge thereof, or to have such mortgages, as hereinafter mentioned, of the tolls to be collected on such consolidated Trusts executed to them by the said Trustees of the Trusts so consolidated, in lieu of their respective securities as aforesaid, and shall declare such option by some writing under their respective hands, to be addressed to the said Justices' General County Surveyor, to be by him laid before the Justices.

16.
In cases of Infants, Lunatics or partial interests, option to be declared by the Guardians, Committees, &c.

And be it Enacted, That where the person entitled to any sum of money secured on the said tolls by either of the several Acts relating to the Trusts so consolidated authorized to be taken, shall be an infant or person of non-sane memory, or where any sum of money, by reason of any will or settlement, or otherwise, shall not belong absolutely to any one individual, then and in either of the said cases the guardian or guardians of such infant, or the committee or committees of such person of non-sane memory, or the person entitled to the first life-interest in such sum of money (as the case may be) shall be entitled to exercise such option as aforesaid, whether to have the sum paid off, compounded for or secured as aforesaid.

17.
If no option declared, Persons to be considered as electing not to be paid off.

And be it Enacted, That in all cases where, from the person or persons entitled to any sum of money secured on the said tolls, by either of the several Acts relating to the Trusts so consolidated, authorized to be taken, being absent, or from *Two* or more persons being so entitled, and not agreeing amongst themselves, or from neglect or any other cause, such option as hereinbefore is given shall not be declared on or before the time fixed in the said advertisements, the person or persons entitled to such sum of money shall be considered to have elected not to have the same paid off, but to have the same secured by a mortgage of the tolls of such consolidated Trusts.

18.
Trustees to examine the validity of Claims sent in, and to give information to Creditors desirous of making their option.

And be it Enacted, That the Trustees of such consolidated Trusts shall cause the validity of all claims which shall be sent into them in pursuance of the aforesaid provisions, to be inquired into and examined, and the total amount and particulars of such claims to be ascertained, and shall give any information, both as to the amount of such claims and the probable annual amount of the tolls to be collected on such consolidated Trusts, and the other revenues and the expenses of the said Trustees which may be required by any of the said mortgagees or other creditors, for the purpose of enabling them to come to a satisfactory determination in making such option as is hereby given them.

19.
Trustees may borrow of private individuals.

And be it Enacted, That it shall be lawful for the said Trustees of each consolidated Trust, with the consent in writing under the hands and seal of the said Board, to borrow of any person or persons, or body or bodies politic or corporate, on mortgage (pursuant to the provisions of the said General Turnpike Acts), of the tolls authorized to be taken by the several Acts relating to the Trusts so consolidated, the whole or any part of the amount which may be required for the payment of or composition for the sum or sums of money secured on the tolls by either of the said several Acts authorized to be taken, and which the parties entitled thereto shall have declared their option to have paid off forthwith or compounded for, pursuant to the provisions for that purpose herein contained.

20.
Trustees to pay off Creditors desirous of being paid off, and to execute mortgages to those not desirous of being paid off.

And be it Enacted, That the said Trustees shall as soon as conveniently may be, after they have borrowed such sum of money as aforesaid, pay the persons entitled to any sums secured on the tolls by the several Acts relating to the Trusts so consolidated authorized to be taken, and desirous of having the same paid off forthwith or compounded for, the amount of such principal sums, together with interest thereon, at such rate of interest as they shall respectively bear from the time to which the interest thereon shall have been then already paid, up to the time of payment of such principal sum or the amount of such composition, and shall execute to the persons entitled to any sums secured on the tolls by either of the several Acts relating to the Trusts so consolidated authorized to be taken, and not desirous of having the same paid off forthwith, or to such persons as they shall respectively appoint, mortgages of the tolls authorized to be taken in such consolidated Trusts, and of the toll-houses, gates, bars and other property necessary for collecting the same, for securing to the said persons respectively the principal sums to which they shall respectively be so entitled, with interest thereon, at such rate of interest as they shall respectively bear from the time up to which such interest shall have been paid, such interest to be made payable at the days and times at which it is payable, under and by virtue of the existing mortgages, bonds or other securities, and the mortgages to be executed by the said Trustees as aforesaid to be either in the form prescribed by the said General Turnpike Acts, or in any other form which to the said Board and to the intended mortgagees shall seem more convenient or proper.

21.
Such Mortgages and Assignments to be free of Stamp Duty.

And be it Enacted, That no mortgage to be executed by the said Trustees in manner aforesaid, either as a substitution for or in order to raise money for paying off and discharging any mortgage or other security now existing, and by either of the said Acts relating to any of the Trusts so consolidated authorized to be taken, or any assignment thereof, shall be liable to or charged with the payment of any stamp duty, any thing in any Acts to the contrary thereof in anywise notwithstanding.

22.
Provision for payment of money to

And be it Enacted, That where any infant or person of non-sane memory shall be entitled to any sum of money to be payable under the provisions hereinbefore contained, or where the mortgage, bond or other security in respect of which any sum shall be payable, shall, by any deed, will or otherwise, have been settled, limited or given to or upon or for the benefit of persons not taking absolute interests therein, the same shall be paid to the guardian or guardians of such infant, the committee or committees of such person of non-sane memory, or the Trustees in whom such mortgage, bond or other security shall be vested, as the case may be; and the receipts of such guardians, committees and trustees shall be sufficient discharges to the said Trustees of the consolidated Turnpike Trust, and shall exonerate them from being liable for the misapplication or nonapplication of the sums mentioned in such receipts; and, in the instance last mentioned, if there shall be no Trustee in whom such mortgage, bond or other security shall be vested, the sums of money shall be paid into the County Treasurer's hands, to be placed to the credit of "Ex-parte the Trustees of the Consolidated Turnpike Trust;" and shall, when so paid in, be invested in the purchase of Three Pounds per Centum Consolidated, or Three Pounds per Centum per Annum Reduced Bank Annuities, in the names of the members of the Board; and the said Consolidated or Reduced Bank Annuities, and the dividends thereof, shall be transferred and paid respectively to the persons who would have been respectively entitled to the principal and interest of the money in discharge of which the same shall have been so paid in case this Act had not been made, and in the like manner in which such persons would have been respectively entitled to the principal and interest of the said money.

which Infants may be entitled.

23.
Mortgages to be made as aforesaid, to be entitled to no priority one over the other;

And be it Enacted, That all the several mortgages to be executed in manner aforesaid by the said Trustees, either as a substitution for or in order to raise money for paying off and discharging any sum secured by mortgage, bond or other security on the tolls by any of the Acts relating to either of the Trusts so consolidated authorized to be taken, shall be considered as standing pari passu, and not entitled to any priority the one over the other; but the several mortgagees shall be tenants in common of the said tolls authorized to be taken on such consolidated Trust, and of the toll-houses, gates, bars and other property comprised in their respective mortgages, and their several shares therein shall be proportionate to the amount of the sums secured by their respective mortgages: Provided always, That all the said mortgages to be executed in manner aforesaid by the said Trustees, either as a substitution for or in order to raise money for paying off or discharging any sum secured by mortgage, bond or other security on the tolls by any of the Acts relating to either of the Trusts so consolidated authorized to be taken, shall have priority over every subsequent mortgage which may

but to have priority over subsequent mortgages, and subsequent mortgages to have priority over one another, unless provision is made to the contrary.

may hereafter be executed by the said Trustees, under the powers of this Act or of the said General Turnpike Acts, and all such subsequent mortgages shall have priority the one over the other of them, according to their respective dates and times of execution, (unless provision to the contrary shall be expressly inserted in any such mortgage, declaring that it shall not be entitled to priority over any future mortgage or mortgages, and that either generally or specifying the amount of such future mortgage or mortgages); and all such subsequent mortgages shall be either in the form prescribed by the said General Turnpike Acts, or in any other form which the Board appointed under and by virtue of this Act may think more suitable, any thing in the said General Turnpike Acts to the contrary notwithstanding.

24.
Application of Tolls and Monies.

And be it Enacted, That all and every tolls by the several Acts relating to the Trusts so consolidated, and by the said General Turnpike Acts, authorized to be taken on the said Roads of each of the said Trusts so consolidated, shall be vested in the said Trustees of such consolidated Trust; and the sums arising therefrom and from any Trust estates, and all other sums which by virtue of the several Acts relating to the Trusts so consolidated, or of the said General Turnpike Acts, shall be payable to the said Trustees of such consolidated Trust, shall be applied for the purposes and in manner following; (that is to say) first, in paying the annuities and the interest of the several sums by either of the several Acts relating to the Trusts so consolidated, or by this Act charged or directed to be charged upon or made payable out of the said tolls and other monies; secondly, in maintaining, repairing and keeping in repair, amending, widening, draining, lighting, watching and paving, according to the provisions of the several Acts relating to the Trusts so consolidated, and of this Act, and of the said General Turnpike Acts, the said Roads on each of the said Trusts so consolidated, and in erecting, removing, altering and repairing toll-gates, toll-houses and other erections necessary for the due collecting of the tolls so authorized to be taken, and for other the purposes in each of the said several Acts and the General Turnpike Acts contained; and lastly, by paying off the principal sums by this or any former Act charged or directed to be charged upon, or which may hereafter, under the powers of this Act or of the said General Turnpike Acts, be borrowed upon the security of the said tolls of such consolidated Trust.

25.
On consolidation of Trusts, provisions of Local Acts relating to each Trust and General

And be it Enacted, That on consolidation of any Turnpike Trusts, all the powers, provisions and authorities in any local Act or Acts contained, relating to any of the Trusts so consolidated, as well as the powers, provisions and authorities of the General Turnpike

Acts, shall continue to be applicable to such respective Trusts, except so far as the same may be altered or controlled by this Act.

Turnpike Acts, to be applicable to each Trust, except, &c.

26. Securing rights, &c. of Creditors, &c.

And be it Enacted, That no consolidation or union of Turnpike Trusts, or dissolution or alteration thereof, or addition thereto, shall in any manner prejudice, vary or affect the rights or interest of any creditor or mortgagee, or other party, under any of the Acts relating to either of the Trusts so consolidated, or in the event of a dissolution or alteration thereof, or addition thereto, unless such creditor or mortgagee, or other party, shall consent, in writing, to such dissolution, alteration or addition.

27. Local Acts not to be amended without consent of Board.

And be it Enacted, That no application shall be made to Parliament for any local Turnpike Act, nor for the alteration, amendment or renewal of any local Turnpike Act already passed, unless with consent in writing under the hands and seal of the said Board, and unless a clause and covenant is inserted, that a sinking fund be provided of not less than *Five* per centum per annum for the payment of every outstanding debt, and of *One* per centum per annum for any debts hereafter added.

28. Power for Board to make orders, &c. for management of Roads in Turnpike Trusts not consolidated.

And be it Enacted, That the powers and authorities in this Act contained as to the making of orders and regulations in a consolidated Trust, shall and may be used and exercised, if the said Board shall think fit, with respect to the Road or Roads in any Trust, although the same may not have been consolidated with any other Turnpike Trust or Trusts.

29. No Order or regulation of Board to be removed by certiorari.

And be it Enacted, That no order or regulation made by the said Board under the authority of this Act shall be removed or removable by certiorari, or any other writ or process whatsoever, into any of His Majesty's Courts of Record at Westminster.

30. Justices at Special Sessions to inquire into the revenues, and condition of the repairs of Turnpike Roads, and may, if necessary, apportion a part of Highway Rate to Trustees of Turnpike Road.

AND whereas by law persons have hitherto been liable to do statute work on Turnpike Roads, or to pay a composition in lieu thereof, but, by an Act passed in the fifth and sixth year of the reign of His present Majesty, intituled, "An Act to consolidate and amend the Laws relating to Highways in that part of Great Britain called England," all statute work is abolished: AND whereas by the said Act it is provided, that at the Special Sessions for the Highways held next after the Twenty-fifth day of March in every year, the Surveyor of every parish shall make a return of the length of the Roads within his parish; BE it Enacted, That every such Surveyor shall in such return distinguish how much of such Roads is Turnpike Road; and if such Turnpike Road shall be within more than one Trust, then how much is within each Trust; and that it shall be lawful for the Justices at any Special Sessions for the

the Highways, upon application made to them by or on the part of any *Three* or more of the Trustees of any Turnpike Road within such parish, the consent of the Board appointed under the authority of this Act being first had and obtained (notice in writing of such intended application having been previously given by or on the part of the said Trustees to such Parish Surveyor *Twenty-one* Days at least before such Special Sessions), to examine the state of the revenues and debts of such Turnpike Trust, and to inquire into the state and condition of the repairs of the Roads within the same; and if, after such examination, it shall appear to the said Justices necessary or expedient for the purposes of such Turnpike Road so to do, then to adjudge and determine what portion (if any) of the rate or assessment levied by virtue of the said Act shall be paid by the said Parish Surveyor, and at what time or times, to the said Trustees or to their Treasurer or other Officer appointed by them in that behalf, such money to be wholly laid out on such part of such Turnpike Road as lies within the parish from which it was received: Provided always, That the portion so to be adjudged and determined upon such application, shall not be of greater amount in any one year than the value of the contribution of statute labour, or amount of composition in lieu thereof, made or paid by the parish in respect of such Turnpike Road upon an average of the last preceding *Five* Years, the Trustees also to have the power, with the approbation of the Board in writing, to substitute the said rate in place of tolls on their Trust.

31.
If Surveyor refuse to pay over Rate or Assessment, same to be levied on his goods and chattels.

And be it Enacted, That if any such Parish Surveyor shall refuse or neglect to pay over such portion of the said rate or assessment at the time and times and in manner mentioned in the order of the said Justices, the same shall and may be levied upon the goods and chattels of such Surveyor in such manner as penalties and forfeitures are by the said Act authorized to be levied.

32.
Public Act.

And be it Enacted, That this Act shall be deemed a Public Act, and shall extend to that part of Great Britain called England, and be judicially taken notice of as such by all Judges, Justices and other persons whatsoever.

33.
Act may be amended, &c. this Session.

And be it Enacted, That this Act may be amended, altered or repealed by any Act or Acts to be passed during the present Session of Parliament.

Turnpike Trusts.

A

B I L L

To amend the Laws regarding the Trusts of Turnpike Roads in that part of Great Britain called England.

(*Prepared and brought in by*
Mr. Mackinnon and Mr. Plumptre.)

Ordered, by The House of Commons, *to be Printed,*
7 *April* 1837.

173.

21 *April* 1837.—7 Will. IV.

A

BILL

For continuing for a limited time the several Acts for regulating the Turnpike Roads in Great Britain which will expire with the present or with the next Session of Parliament.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble:

WHEREAS it is expedient that the several Acts for regulating Turnpike Roads in Great Britain, hereinafter particularly referred to, should be continued for a limited time; BE it therefore Enacted, by The KING's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT all and every Acts and Act for making, amending or repairing any Turnpike Road or Roads in Great Britain which will expire at the end of the present Session of Parliament, if Parliament shall be sitting on the first day of June next, and all and every Acts and Act of Parliament for making, amending or repairing any Turnpike Road or Roads in Great Britain which will expire on the first day of June One thousand eight hundred and Thirty-eight, or if Parliament shall then be sitting at the end of the then Session of Parliament, shall be and the same are and is hereby continued until the *First* day of *June One thousand eight hundred and Thirty-nine*, or if Parliament shall then be sitting, until the *End of the then Session of Parliament*.

Turnpike Acts near expiring continued for a further term.

Turnpike Road Acts Continuance.

A

BILL

For continuing for a limited time the several Acts for regulating the Turnpike Roads in Great Britain which will expire with the present or with the next Session of Parliament.

(Prepared and brought in by
Mr. Fox Maule and Lord John Russell.)

Ordered, by The House of Commons, *to be Printed,*
21 *April* 1837.

223.

12 *May* 1837.—7 Will. IV.

(Ireland.)

A

BILL

For continuing for a limited time the several Acts for regulating the Turnpike Roads in Ireland, which will expire with the present or with the next Session of Parliament

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble.

WHEREAS it is expedient that the several Acts for regulating Turnpike Roads in Ireland, hereinafter particularly referred to, should be continued for a limited time; **BE it therefore Enacted**, by The KING's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT all and every Acts and Act for making, amending or repairing any Turnpike Road or Roads in Ireland which will expire during or at the end of the present Session of Parliament, and all and every Acts and Act of Parliament for making, amending or repairing any Turnpike Road or Roads in Ireland which will expire at the end of the next Session of Parliament or at any previous time, shall be and the same are and is hereby continued until the *First* day of *June One thousand eight hundred and Thirty-nine*, or if Parliament shall then be sitting, until the *End of the then Session of Parliament.*

Turnpike Acts near expiring continued for a further term.

Turnpike Road Acts Continuance.

(Ireland.)

A

BILL

For continuing for a limited time the several Acts for regulating the Turnpike Roads in Ireland, which will expire with the present or with the next Session of Parliament.

(Prepared and brought in by
Lord Viscount Morpeth and Mr. More
O'Ferrall.)

Ordered, by The House of Commons, *to be Printed,*
12 *May* 1837.

310.

523

A

B I L L

For extending the Provisions of the Uniformity of Process Act to certain cases.

WHEREAS by an Act passed in the second year of the reign of His present Majesty King WILLIAM the Fourth, intituled, "An Act for Uniformity of Process in Personal Actions in His Majesty's Courts of Law at *Westminster*," it is amongst other things recited, that "there are in divers parts of *England* certain districts and places, parcel of some one county, but wholly situate within and surrounded by some other county, which is productive of inconvenience and delay in the service and execution of the Process of the said Courts:" AND whereas, for remedy thereof, it was enacted, that every such district and place should and might, for the purpose of the service and execution of every Writ and Process, whether mesne or judicial, issued out of any of the said Courts, be deemed and taken to be part as well of the county wherein such district or place is so situate as aforesaid, as of the county whereof the same is parcel, and that every such Writ and Process might be directed accordingly, and executed in either of such counties: AND whereas the said Act hath in many cases been of great ease and benefit to Suitors in the said Courts: AND whereas the said Act hath been found to be defective by reason of its not extending to the Cinque Ports, and to detached districts or places which are parcels of or situate within or subject to some seigniory, cinque port, liberty, franchise, or other exclusive or particular jurisdiction, whereby a like inconvenience and delay have been produced; **BE it therefore Enacted**, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled,

Preamble:

2 Gul. 4. c. 39.

assembled, and by the Authority of the same, THAT every Cinque Port, and every Member of any Cinque Port, and every detached District and Place being parcel of or within or subject to any cinque port, seigniory, liberty, franchise, or to any exclusive or particular jurisdiction whatsoever, shall, for the purpose of the service and execution of every Writ and Process whatsoever, mesne or judicial, issued out of any of His Majesty's Courts of Law at *Westminster*, be deemed and taken to be as well within the jurisdiction of the Sheriff of the County wherein such Cinque Port, Member, District or Place is so situate, as within the jurisdiction of the Officer of any such exclusive or particular jurisdiction now having the service and execution of such Writ and Process therein; and every such Writ and Process may be directed accordingly, and executed as well by such Sheriff as by such Officer.

Uniformity of Process.

A

B I L L

For extending the Provisions of the Uniformity of Process Act to certain cases.

(Prepared and brought in by
Mr. Elphinstone and Mr. Marjoribanks.)

Ordered, by The House of Commons, *to be Printed,*
11 *April* 1837.

188.

(Scotland and Ireland.)

A

BILL

To make Perpetual an Act for repealing certain Acts relating to the Removal of Poor Persons born in *Scotland* and *Ireland*, and chargeable to Parishes in *England*, and to make other Provisions in lieu thereof.

WHEREAS an Act was passed in the third and fourth years of the reign of His present Majesty, intituled, "An Act to repeal certain Acts relating to the Removal of Poor Persons born in *Scotland* and *Ireland*, and chargeable to Parishes in *England*, and to make other Provisions in lieu thereof," until the First day of May One thousand eight hundred and Thirty-six, and from thence to the End of the then next Session of Parliament: And whereas the Provisions of the said Act have been found beneficial: And whereas the said Act will expire at the end of the present Session of Parliament, and it is desirable that the same should be made Perpetual; **Be it therefore Enacted**, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the said Act, and all and every the Provisions thereof, shall be and the same are hereby made Perpetual.

Preamble.

Recited Act 3 & 4 Will. IV. made perpetual.

Vagrants' Removal.

(Scotland and Ireland.)

A

BILL

To make Perpetual an Act for repealing certain Acts relating to the Removal of poor Persons born in *Scotland* and *Ireland*, and chargeable to Parishes in *England*, and to make other Provisions in lieu thereof.

(*Prepared and brought in by*
Mr. Robert Palmer and Mr. Walter.)

Ordered, by The House of Commons, *to be Printed,*
8 *February* 1837.

24.

15 *June* 1837.—7 WILL. IV.

A

BILL,

INTITULED,

AN ACT to alter the Mode of giving Notices for the holding of Vestries, of making Proclamations in cases of Outlawry, and of giving Notices on Sundays with respect to various Matters.

Note.—*The Figures in the Margin denote the Number of Folios in the written Copy.*

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1 WHEREAS by an Act of Parliament passed in the fifty-eighth year of the reign of his late Majesty King GEORGE the Third, intituled, "An Act for the Regulation of Parish Vestries," it is enacted, that no Vestry or Meeting of the Inhabitants in Vestry of or for any Parish shall be holden until public Notice shall have been given of such Vestry, and of the place and hour of holding the same, and the special purpose thereof, Three Days at the least before the day to be appointed for holding such Vestry, by the publication of such Notice in the Parish Church or Chapel, on some Sunday during or immediately after Divine Service, and by affixing the same, fairly written or printed, on the principal door of such Church or Chapel: Preamble. 58 G. 3. c. 69.

And whereas by an Act passed in the thirty-first year of Queen ELIZABETH it is enacted, that before any Outlawry shall be had and pronounced, Proclamation shall be made at the door of the Church or Chapel of the Town or Parish where the Defendant shall be dwelling, immediately after Divine Service on a Sunday: And whereas by divers Acts relative to the assessing and collecting of

Highway and Poor Rates and Land Tax, and other matters, it is directed or required that public notice shall be given with reference to certain proceedings relating thereto respectively in the Parish Churches or Chapels during Divine Service:

And whereas, by ancient custom, notice is usually given in Churches during Divine Service, of the times appointed for holding Courts Leet, Courts Baron and Customary Courts:

And whereas it is expedient that such mode of giving Notices should be altered;

1.
Notices not to be given in Churches during Divine Service. &c.

BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the passing of this Act, so much of the said first recited Act as directs the publication of such Notices to be made in the Parish Church or Chapel, on some Sunday during or immediately after Divine Service, shall be and the same is hereby repealed; and that from and after the First Day of January next, no Proclamation or other public Notice for a Vestry Meeting, or any other matter, shall be made or given in any Church or Chapel during or after Divine Service, or at the door of any Church or Chapel, at the conclusion of Divine Service.

2.
Notices heretofore usually given before or after Divine Service, &c. to be affixed to the Church Doors.

And be it further Enacted, That from and after the First Day of January next, all Proclamations or Notices which, under or by virtue of any law or statute, or by custom or otherwise, have been heretofore made or given in Churches or Chapels during or after Divine Service, shall be reduced into writing, and copies thereof, either in writing or in print, or partly in writing and partly in print, shall, previously to the commencement of Divine Service, on the several days on which such Proclamations or Notices have heretofore been made or given in the Church or Chapel of any Parish or Place, or at the door of any Church or Chapel, be affixed on or near to the doors of all the Churches and Chapels within such Parish or Place; and such Notices, when so affixed, shall be in lieu of and as a substitution for the several Proclamations and Notices so heretofore given as aforesaid, and shall be good, valid and effectual, to all intents and purposes whatsoever.

3.
Notices for holding Vestries to be signed as herein directed.

And be it further Enacted, That no such Notice of holding a Vestry shall be affixed on the principal door of such Church or Chapel, unless the same shall previously have been signed by a Churchwarden of the Church or Chapel, or by the Rector, Vicar or Curate of such Parish, or by an Overseer of the Poor of such Parish; but that every such Notice so signed shall be affixed on or near to the principal door of such Church or Chapel.

And

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4. Decrees, &c. of Ecclesiastical Courts not to be read in Churches.

And be it further Enacted, That from and after the First Day of January next, no Decree relating to a Faculty, nor any other Decree, Citation or Proceeding whatsoever in any Ecclesiastical Court, shall be read or published in any Church or Chapel during or immediately after Divine Service.

5. Act not to extend to Notices purely Ecclesiastical.

Provided always, and be it further Enacted, That nothing in this Act shall extend or be construed to extend to the Publication of Banns, nor to Notice of the Celebration of Divine Service or of Sermons, nor to restrain the Curate, in pursuance of the rules in the Book of Common Prayer, from declaring unto the people what Holy Days or Fasting Days are in the week following to be observed, nor to restrain the Minister from proclaiming or publishing what is prescribed by the rules of the Book of Common Prayer, or enjoined by the King or by the Ordinary of the place.

6. Extension of Act.

And be it further Enacted, That all the provisions of this Act shall extend and be construed to extend to the Town of *Berwick-upon-Tweed*, the *Isle of Man*, and the Islands of *Guernsey*, *Jersey*, *Alderney* and *Sark*.

Church Notices.

A

BILL,

INTITULED,

AN ACT to alter the Mode of giving Notices for the holding of Vestries, of making Proclamations in cases of Outlawry, and of giving Notices on Sundays with respect to various Matters.

Ordered, by The House of Commons, *to be Printed,*
15 *June* 1837.

402.

5 *July* 1837.—1 VICT.

A

BILL

For abolishing the system of Plurality of Voting in Vestries and Unions.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble: 58 Geo. 3.

WHEREAS by an Act passed in the fifty-eighth year of the reign of his Majesty King GEORGE the Third, intituled, "An Act for the Regulation of Parish Vestries," it was enacted, that in all such Vestries every inhabitant present who shall, by the last rate which shall have been made for the relief of the poor, have been assessed and charged upon or in respect of any annual rent, profit or value, not amounting to Fifty Pounds, shall have and be entitled to give One Vote, and no more; and every inhabitant there present who shall, in such last rate, have been assessed or charged upon or in respect of any annual rent or rents, profit or value, amounting to Fifty Pounds or upwards (whether in one or in more than one sum or charge), shall have and be entitled to give One Vote for every Twenty-five Pounds of annual rent, profit and value, upon or in respect of which he shall have been assessed or charged in such last rate, so nevertheless that no inhabitant shall be entitled to give more than Six Votes; and in cases where two or more of the inhabitants present shall be jointly rated, each of them shall be entitled to vote according to the proportion and amount which shall be borne by him of the joint charge; and where one only of the persons jointly rated shall attend, he shall be entitled to vote according to and in respect of the whole of the joint charge:

4 & 5 Will. 4.

And whereas, by another Act passed in the Session of Parliament holden in the fourth and fifth years of his late Majesty, intituled, "An Act for the Amendment and better Administration of the Laws relating to the Poor in England and Wales," it was and is enacted, that in all cases of elections of Guardians under the said last-mentioned Act, or whenever the consent of the Owners of property or Rate-payers in any Parish or Union shall be required for the purposes of the said last-mentioned Act, the Owner as well as the Rate-payer, in respect of any property in such Parish or Union, shall be entitled to vote, and that the Owner shall have the same number and proportion of Votes respectively as is provided for inhabitants and other persons in and by the fifty-eighth of GEORGE the Third, the hereinbefore first-mentioned Act, and that the Rate-payers under Two hundred Pounds shall each have a single Vote; and that the Rate-payers rated at Two hundred Pounds or more, but under Four hundred Pounds, shall each have Two Votes; and that the Rate-payers rated at Four hundred Pounds or more shall each have Three Votes; and that the majority of the Votes of such Owners and Rate-payers which shall be actually collected and returned, shall in every such case be binding on such Parish or Union; and that where any such Owner shall be the bonâ fide occupier of any such property, he shall be entitled to vote as well in respect of his occupation as of his being such Owner:

And whereas, by divers other Acts of Parliament, a plurality of Votes is given to certain persons in respect of various matters connected with the administration of the laws for the relief of the poor in England and Wales, and other parochial matters:

And whereas the said right of one person to give a plurality of Votes for one Candidate at one election often has the effect of defeating the wishes of the majority of persons having the right of voting, and whose aggregate property and assessments greatly exceed the assessments, ownerships and property of those owners and rate-payers to each of whom a plurality of Votes is allowed by law;

1.
Repeal of so much of 58 Geo. 3, and 4 & 5 Will. 4, and all other Acts, as allow more than One Vote in Vestry Elections.

BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT so much of the said recited Acts, and so much of any Act to amend the same, and so much of all such other Acts as aforesaid as allow or entitle any one person to give more than One Vote for One Candidate at any Election in Vestries, or for the Election of Boards of Guardians, or other proceeding, shall be and are hereby Repealed; and after the *passing of this Act*, no such person shall have or be entitled to give more than *One* Vote for *One* Candidate at any election, or other proceeding relating in anywise to the

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the administration of the laws for the relief of the Poor in England and Wales, or to any other parochial matter whatsoever.

2. Power to give One Vote.

Provided nevertheless, and be it Declared and Enacted, That nothing herein contained shall be construed to deprive any person of the right of giving *One* Vote, who, at every Election or other proceeding, would be entitled to give either One or more Votes under any of the beforementioned Acts.

Parish Vestries.

A

BILL

For abolishing the system of Plurality of Voting in Vestries and Unions.

(*Prepared and brought in by*
Mr. Wakley and Mr. Elphinstone.)

Ordered, by The House of Commons, *to be Printed,*
5 *July* 1837.

478.

24 *April* 1837.—7 WILL. IV.

(Ireland.)

A

BILL

To promote the Reclamation and Improvement of Uncultivated Lands in Ireland.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble.

WHEREAS there are in Ireland numerous large tracts of uncultivated Lands, consisting of Bog Lands, Lands adjoining rivers, streams and lakes, periodically flooded or covered with water, or by the sea, and other Lands rendered unproductive by various natural causes, many of which by the application of proper means are capable of being reclaimed and improved, but from want of unanimity among the Proprietors, and from the inability of Tenants for life and other persons having partial interests to charge the inheritance of their respective estates with their proportion of the requisite outlay, no efficient measures can be adopted for effecting such improvements;

AND whereas there are several rivers and lakes in different parts of Ireland, which by proper cuts and other works might be connected one with another, and with the sea, and rendered navigable so as to give the benefit of water conveyance to the adjacent country;

1.
Consent of Proprietors of two-thirds of any tract of Land to contribute towards the expenses of improving the same to be binding on the other Proprietors.

BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT in every case where the Proprietors of *One-half*, or more in extent and value of any Bog Land, or Lands adjoining any river, stream or lake periodically flooded or covered with water, or by the sea, or any other Lands rendered unproductive by natural causes, and which Bog or other Lands shall be considered capable of being brought into cultivation, and also where the Proprietors of *One-half* or more in extent and value of any Lands situate in places where there are rivers, streams or lakes which may be connected one with another, or with the sea, and rendered navigable, shall consent in writing to contribute towards the necessary expenses for improving or bringing into cultivation the said Bog or other Lands, or connecting any rivers or lakes with one another, or with the sea, and rendering the same navigable; then every other Proprietor of any portion of such Bog or other Lands shall be bound to pay and contribute a due proportion of such expenses, in the same manner as if he had formally consented thereto, but in the manner hereinafter mentioned and subject to the provisions hereinafter contained.

2. Committees, Trustees, Tenants for life, &c., authorized to apply to Court of Chancery for leave to consent.

And be it Enacted, That it shall and may be lawful for all Committees and Curators of lunatics or idiots, guardians of infants, and all Trustees or persons acting on behalf of married women and other persons incapable of acting for themselves, who shall be interested in or entitled to any portion of the Lands so proposed to be improved, for and on behalf of such lunatics, idiots, infants, married women, and other persons incapable of acting for themselves, and also for all tenants for life and other persons entitled to partial interests (except tenants at rack-rent), to apply in a summary way by Petition to His Majesty's Court of Chancery in Ireland, for leave to consent to contribute towards the expenses of improving or bringing into cultivation such Lands, or effecting such other improvements as aforesaid; and such Court shall have power to inquire into the propriety of giving such consent, and to make such order on such Petition, and as to the costs thereof, as to such Court shall seem meet; and if such Court shall authorize any such consent being given, then it shall be lawful for the party who shall have presented such Petition to give such consent and the same shall be as binding and effectual to all intents and purposes whatsoever as if the party giving the same had been the sole absolute owner in fee-simple of the Land in respect of which such consent shall be given: Provided always, That any party who shall present any such Petition and shall give any such consent as aforesaid in pursuance of any order made upon any such Petition, shall not be guilty of any breach of trust or misfeasance by reason of having presented such Petition or given such consent.

3. Commissioners to be appointed.

And be it Enacted, That in every case where any Land shall be so proposed to be improved, some fit and proper person or persons shall at the request of such *One-half* or more of the said Proprietors, be nominated and appointed by the Lord Lieutenant or other Chief Governor or Governors of Ireland for the time being, to act as a Commissioner or Commissioners for superintending the reclamation, navigation and other improvements proposed to be made, and for dividing and apportioning the expenses of and incidental to the same, and for applotting such expenses upon the Lands and Estates which shall be benefited by

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such improvements; and every person who shall be so nominated shall be considered and be qualified to act as a Commissioner for the purposes aforesaid; and in every case where more than two Commissioners shall be appointed to act, all matters, acts and things authorized or necessary to be done and executed by such Commissioners or any other Commissioner or Commissioners who shall be appointed as hereinafter mentioned, may be done and executed by the majority of them, and the same shall be as good, valid and effectual, and shall have the same force and effect as if such matters, acts and things had been done and executed by all of the Commissioners.

4.
Assistant Barrister may be directed to inquire whether the requisite number of Proprietors consent to improvements.

And be it Enacted, That it shall be lawful for the Lord Lieutenant or other Chief Governor or Governors of Ireland for the time being, if he or they shall think fit, but not otherwise, previously to the issuing of any such Commission as aforesaid, to direct the Assistant Barrister of any county in Ireland, to inquire and report whether the persons who shall request any such Commission to be issued, or shall have consented to the issuing thereof, do really form one half or more in extent and value of the proprietors of the bog or other lands in respect of or in relation to which such Commission is proposed to be issued, and such Assistant Barrister, is hereby authorized and required at the next ensuing Quarter Sessions to inquire touching the matters so referred to him, and for this purpose if he shall think fit to appoint a solicitor practising in his court to conduct such inquiry; and the said Assistant Barrister is is hereby authorized and required to summon before him and examine all such persons, and to require the production of all such documents as he shall think necessary for the purpose of enabling him to report upon such matters, and he shall accordingly report his opinion to the Lord Lieutenant, or other Chief Governor or Governors of Ireland for the time being; and the reasonable costs of such reference to the said Assistant Barrister, and of making his report, shall either be accounted part of the expenses of effecting the proposed improvements, and be raised and paid accordingly, or shall be paid by the person or persons applying for the Commission, as the said Assistant Barrister shall think fit to direct; and if the person or persons so applying for the Commission shall be directed to pay any sum or sums of money on account of such costs, then the same may in default of payment be raised and levied by distress and sale of the goods and chattels of the person or persons who ought to pay the same, by virtue of a warrant under the hand and seal of the said Assistant Barrister, who is hereby authorized to issue such warrant.

5.
Issuing of Commission to be conclusive evidence that requisite consent of proprietors was obtained.

Provided always, and be it Enacted, That the issuing of any such Commission as aforesaid, shall in every case be deemed conclusive evidence that one half or more in extent and value of the proprietors of the bog or other lands, in respect of or in relation to which such Commission is issued, did consent in writing to contribute towards the necessary expenses for improving or bringing into cultivation such bog or other lands, or making such other improvements as aforesaid, and that whether any such reference shall or shall not have been made to the Assistant Barrister as hereinbefore provided.

6.
For appointing new Commissioners.

And be it Enacted, That if any such Commissioners shall refuse or become incapable to act as a Commissioner for the purposes aforesaid, or shall die before all the powers, authorities and trusts reposed and vested in him either alone or in conjunction with any other Commissioner or Commissioners shall be fully executed and performed, then and in every such case the Lord Lieutenant or other Chief Governor or Governors of Ireland for the time being, shall appoint another person to be a Commissioner for the purposes aforesaid in the place of such Commissioner so refusing or becoming incapable to act or dying as aforesaid; and every person so to be appointed a Commissioner as aforesaid, shall, after taking the oath or affirmation hereinafter set forth, have the like powers and authorities for effecting the purposes of this Act, in all respects as if he had been originally nominated and appointed a Commissioner.

7.
Commissioners to take an Oath or Affirmation.

And be it Enacted, That no person shall be capable of acting as a Commissioner (except in administering the oath or affirmation hereinafter mentioned to any other Commissioner) until he shall have taken the Oath, or (being a Quaker or other person objecting to take an oath) made the Affirmation hereinafter mentioned; (that is to say)

Oath.

> "I, A. B. do swear [or, being a Quaker, or other person objecting to take an oath, do solemnly affirm], That I will truly and impartially, according to the best of my skill and knowledge, execute and perform all the powers and authorities in the execution whereof I shall at any time act as a Commissioner pursuant to an Act made in the seventh year of the reign of His Majesty King William the Fourth, intituled, "An Act," et cetera, [here set forth the title of this Act.]
>
> So help me GOD."

Which oath or affirmation it shall be lawful for any Justice of the Peace to administer, or for any one Commissioner to administer to any other Commissioner.

8.
Persons acting without taking the Oath to forfeit

And be it Enacted, That in case any person shall act as a Commissioner before he shall have taken the said Oath or made the said affirmation, every such person shall forfeit and pay the sum of to any person who shall sue for the same, to be recovered with full costs of suit by action of debt or on the case in

any

any of His Majesty's Courts of Record in Dublin, wherein no essoign, protection or wager of law, or more than one imparlance shall be allowed; and the person so proceeded against shall prove that he has taken such oath or made such affirmation, or otherwise shall pay the said sum of without any other evidence on the part of the Plaintiff than that such person has acted as a Commissioner for the purposes aforesaid, or any of them, but the acts of such Commissioners shall not by the omission or neglect to take such oath, or make such affirmation as aforesaid, be invalidated.

9. Notice of Meetings of Commissioners to be given.

And be it Enacted, That in every case the Commissioner or Commissioners for the purposes aforesaid, shall and he and they is and are hereby required to cause Notice of the time and place of his or their first and every other Meeting, to be inserted in the newspapers printed or circulated within the district or county wherein the Land proposed to be improved shall be situate days at least before every such meeting.

10. Other Notices to be given.

And be it Enacted, That all other Notices necessary or requisite to be given by any Commissioner or Commissioners for the purposes aforesaid in pursuance of this Act, shall be so given by advertisement in the newspapers printed or circulated within the district or county wherein the land proposed to be improved shall be situate.

11. Proceedings to be entered in a Book.

And be it Enacted, That all Orders, Proceedings and Determinations of any Commissioner or Commissioners for the purposes aforesaid, shall be entered in a Book or Books to be provided for that purpose, and shall be signed by such Commissioner or Commissioners, and being so signed shall be deemed and taken for originals; and all such Books shall and may be read in evidence in all actions, suits and other proceedings touching any matter or thing done in relation to or in pursuance of the provisions herein contained.

12. Proprietors to pay their own Expenses at meetings.

And be it Enacted, That all Proprietors, and their Attornies and Agents, when they respectively shall attend any Commissioner or Commissioners for the purposes aforesaid, at any sittings to be held as aforesaid, shall pay their own Expenses.

13. Survey to be made

And be it Enacted, That the Commissioner or Commissioners for the purposes aforesaid shall in every case cause a Survey, admeasurement and plan of the land proposed to be reclaimed or improved, or of such part or parts thereof as he or they may think necessary, to be made: Provided nevertheless, That if any plan or plans, survey or surveys already made shall be produced and laid before the Commissioner or Commissioners, of the authenticity and accuracy of which he or they shall be satisfied, it shall be lawful for the said Commissioner or Commissioners to make use of the same without causing a new survey to be made.

14.
Commissioners to have power to enter upon Lands.

And be it Enacted, That every Commissioner for the purposes aforesaid respectively, or any of them, and his servants and assistants, and all persons employed by him respectively, shall have and he is hereby vested with full power and authority at any time or times whatsoever to enter into, view, examine, survey and admeasure all or any of the Lands proposed to be improved, and any lands near or adjoining thereto, for enabling the said Commissioner or Commissioners to effect the purposes aforesaid or any of them respectively.

15.
Plans of proposed improvements to be published by the Commissioners.

And be it Enacted, That the said Commissioner or Commissioners having ascertained and determined upon the works proper in his or their judgment, to be executed under his or their commission shall, before proceeding with such works, prepare a Schedule, with such maps, plans, drawings and estimates thereto attached as may be necessary, showing and describing the works proposed to be executed, and the probable expense thereof, and the lands, tenements or hereditaments required to be taken for the purposes of this Act, and the mills, weirs, fisheries or other rights or franchises, so far as they may be known to the said Commissioner or Commissioners, liable to be anywise injuriously affected by the proposed works, and shall cause copies of such Schedule, with the maps, plans, drawings and estimates thereto annexed, to be made and deposited in such and so many convenient places in the district, wherein the proposed works shall be intended to be made, and of the premises mentioned in such Schedule, as he or they shall think proper, there to remain open to public inspection at all reasonable times for *Three* successive weeks, and shall cause notices of the place or places where the same may be deposited, to be posted in the usual places for posting grand jury notices in the said district, and shall also cause a like notice to be inserted once in each week for *Three* successive weeks in the *Dublin Gazette*, and in some *One* or more newspapers circulating in or in the neighbourhood of such district; and the said Commissioner or Commissioners shall in and by such notice require all persons who may desire to lodge objections to the said Schedule, to lodge the same at such place within the district, and before such time as shall be specified in the said notice, and the said Commissioner or Commissioners shall also in the said notice state that he or they will proceed to hear any objections which may be lodged, and finally to settle such Schedule at such time and place as shall be specified in the said notice, and he or they shall attend at such time and place accordingly, and shall examine into the matter of any objection which shall be so lodged as aforesaid, and shall hear all such proper evidence as may be offered to him or them in respect thereof, and shall make such rules as he or they may think proper upon the same, and shall make such alterations (if any) in the said Schedule as he or they shall deem fit, and shall finally settle and sign the said Schedule; and as soon as conveniently may be thereafter, lodge the same and the maps, plans, drawings and estimates thereto annexed, with the Clerk of the Peace for the county or one of the counties wherein the proposed improvements are to be made, who is hereby authorized and required to receive and deposit the same among the records of such county, upon receiving a fee of *One* guinea for so doing.

16. Power to drain Lands. and effect other improvements.

And be it Enacted, That it shall be lawful for any Commissioner or Commissioners for the purposes aforesaid, by such contractor or contractors, person or persons, surveyors, agents, workmen and labourers as he or they shall think fit to engage with or employ, to raise or make any embankments, and to make all such cuts, canals and other works as the said Commissioner or Commissioners may deem necessary for connecting one or more river or rivers, stream or streams, lake or lakes, with any other river or rivers, stream or streams, lake or lakes, or with the sea, and for rendering any river or rivers, stream or streams, lake or lakes navigable, and to take down, remove or alter any dams, weirs and other impediments, or so much thereof respectively and in such manner as he or they shall in his or their judgment think necessary and expedient, making full and ample compensation for the same and for the damage to be done thereby to the respective owners thereof; and such Commissioner or Commissioners shall and may also widen, deepen, alter, enlarge, divert, contract, turn, change, discontinue or stop any river, stream, rivulet, brook, watercourse, drain or embankment in such manner as he or they shall think proper or necessary; and also shall and may make new roads, watercourses, sluices, drains, ditches, cuts, canals, dams, channels, culverts, tunnels, banks, bridges, outlets, weirs, engines, fences or other works, in, through, upon and over, as well the Lands proposed to be reclaimed or improved, as also in, through, upon and over any adjacent Lands (the same not being a garden, orchard, planted walk or avenue to any house) without the consent of the owners or proprietors thereof for the time being respectively, making full and ample satisfaction to the owners of such Lands; and the said Commissioner or Commissioners shall have full power to do or cause to be done all such other acts and things as he or they shall deem necessary for effecting all or any of the purposes of this Act, making full and ample compensation to all persons for any damage occasioned to them by the exercise of any such powers.

17. Penalty on persons destroying or

And be it Enacted, That all and every person and persons who shall unlawfully, wilfully, maliciously or wantonly spoil, damage, injure damaging works of drainage.

injure or destroy any watercourse, sluice, drain, weir, embankment, fence or other work which shall be made, erected, widened or altered as aforesaid, for the reclaiming, draining or improving of any lands, or for effecting any other of the purposes of this Act, or shall unlawfully, wilfully, maliciously or wantonly stop or dam up any of the watercourses or drains, or throw, lay or place any matter or thing therein for that purpose, or which shall impede the free passage of water therein, or meddle or interfere with any floodgate or sluice, by means whereof any injury or damage shall or may be done to any of such lands, every such person being convicted thereof shall forfeit and pay such sum not exceeding   as any Justice of the Peace shall adjudge and order, over and besides the amount of the damage done, which damage shall be ascertained by any such Justice; and the said penalty and amount of the damage shall be applied in rectifying and repairing the said works so injured or damaged.

18.
Commissioners may enter Lands and dig for materials (after notice given to appear and show cause) making Compensation.

And be it Enacted, That it shall be lawful for the said Commissioner or Commissioners, or any person or persons authorized by him or them respectively, to search for, dig, gather, take and carry away any materials out of any Lands or premises lying within or contiguous to the Lands proposed to be improved, for making and executing any of the works executed or to be executed under the provisions of this Act, making or tendering such Satisfaction for such materials and for the damage done to the owners or occupiers of the Lands where and from whence the same shall be dug, gathered and carried away, or over which the same shall be carried, as to the said Commissioner or Commissioners shall seem fit and reasonable; but it shall not be lawful for the said Commissioner or Commissioners, or any person by him or them authorized, to dig, gather, get or take or carry away any materials for the purposes aforesaid, out of or from any inclosed land or ground, until notice in writing signed by him or them respectively shall have been given to the owner or owners or occupier or occupiers of the lands or grounds from which the same are intended to be taken and carried away, to appear before any two or more Justices of the Peace sitting in petty sessions acting for the county or place in which the lands or grounds from whence such materials intended to be taken away shall be, to show cause why such materials should not be taken therefrom; and in case such owner or occupier or his agent shall attend pursuant to such notice, but shall not show sufficient cause to the contrary, such Justices shall, if they think proper, authorize the said Commissioner or Commissioners, or any person by him or them authorized or employed, to get, dig and carry away such materials, at such time or times as such Justices shall deem proper; and if such owner or occupier shall neglect or refuse to appear by himself or herself, or his or her agent, the said Justices shall and may, upon proof or oath of the service of such notice, (and which oath they are hereby empowered to administer) make such order therein as they shall think fit, as fully and effectually to all intents and purposes as if such owner or occupier or his or her agents had attended; and in case of any difference between the said Commissioner or Commissioners or the person authorized by him or them as aforesaid, and the owners or occupiers of such Lands, or any of them, from which such materials shall be taken or through which they may be carried, concerning the payments and Compensation for damages as aforesaid, it shall be lawful for any *Two* or more Justices of the Peace for the county or place in which the lands or grounds from whence such materials shall have been taken shall be situate, on *Ten* Days' notice thereof being given in writing by either party to the other, to hear, settle and determine the matter and amount of such payments and damages, and of the costs attending the hearing and determining the same.

If Party is dissatisfied with compensation, any two Justices of the county may settle the same.

19.
Commissioners to fill up holes and pits not found useful, and fence off those that may be found useful.

And be it Enacted, That if the said Commissioner or Commissioners or any person authorized by him or them respectively, shall, by reason of the searching for, digging or getting any materials as aforesaid for making and executing any of the works hereby authorized to be executed, make or cause to be made any pit or hole in any common or other lands or grounds wherein such materials shall be found, the said Commissioner or Commissioners, or persons authorized by him or them, shall forthwith cause the same to be sufficiently fenced off during such time as the said pit or hole shall be found useful, and shall, within *Six* Days after having dug up sufficient materials, if such pit or hole is not likely to be further useful, cause the same to be filled up, sloped down or fenced off, and so continued; and if the same is likely to be further useful, the said Commissioner or Commissioners, or persons authorized by him or them, shall sufficiently secure the same by posts and rails or other fences, to prevent accidents to cattle or persons.

20.
Where paths are interrupted and cuts made so as to require bridges, Commissioners to make new ways and build bridges.

And be it Enacted, That if by any cut, drain or other work made in exercise of the powers hereby given, any Ways, Roads, Paths or Passages, whether the same be public, private, foot, cattle or carriage ways, shall be disturbed or interrupted, or any lands intersected in such manner as to render the future occupation thereof inconvenient or unprofitable, the said Commissioner or Commissioners shall and they are hereby required, with all convenient speed after such works shall be completed, to cause other convenient ways to be made and opened, and any bridges which may be required to be properly built for the convenient use and passage of any person or persons entitled to use such ways either on foot or with cattle or carriages, or for the convenience of the public or of the parties entitled to the use and occupation of any lands intersected in manner aforesaid, as the case may be, and to defray the expense of making such ways and erecting such bridges out of the monies to be raised by virtue of the award of the said Commissioner or Commissioners.

21.
In case new Bridges are built where old ones formerly stood, persons liable to repair the old ones shall repair the new.

Provided always, and be it Enacted, That in case of any Road, Way, Bridge, Drain, Channel or Watercourse which may heretofore have been usually kept in repair or ought to have been kept in repair by the owner or owners of any lands, or by any body corporate or Grand Jury, or by any person liable to the maintenance and repairs thereof by prescription or otherwise, and which shall or may have been diverted, taken down, rebuilt or altered under the powers of this Act, such new, diverted, substituted, altered or rebuilt road, way, bridge, drain, channel or watercourse, shall, after the completion thereof, be thenceforth maintained and kept in repair by such owners, body corporate or Grand Jury or other person respectively, in the same manner as such owners, body corporate, Grand Jury or other persons maintained and repaired as aforesaid such road, way, bridge, drain, channel or watercourse in respect of which such diversion, substitution, rebuilding or alteration as aforesaid may have been made.

22.
Power to take Lands.

And be it Enacted, That for the purposes aforesaid, or any of them, it shall be lawful for any Commissioner or Commissioners for the purposes aforesaid, or any of them, and he and they is and are hereby authorized and empowered to take and use, or cause to be taken and used any Lands, mills, tenements or hereditaments, and pull down and remove or cause to be pulled down and removed any mills which it may be deemed necessary and expedient to pull down and remove for the purposes aforesaid, or any of them, at any time after the expiration of calendar Months, after notice in writing from the said Commissioner or Commissioners, or his or their Agent duly authorized, of the intention to take or use the same, shall have been left with the tenant or tenants, occupier or occupiers of the same lands, mills, tenements or hereditaments, or shall be affixed upon the same premises.

23.
Bodies Politic and Trustees, and other persons empowered to sell and convey.

And be it Enacted, That it shall be lawful for all Bodies politic, corporate or collegiate, ecclesiastical or lay, aggregate or sole, and for all Trustees and feoffees in trust for charitable and other purposes, and all executors and administrators, not only for and on behalf of themselves, their successors, heirs, executors and administrators respectively, but also for and on behalf of their respective cestuique trusts, whether infants, femes covert, idiots, lunatics or persons not born or not ascertained, or any other person or persons whomsoever, and to and for all tenants for life or for years, absolute or determinable on any life or lives, and all persons having any other partial or qualified estate or interest, not only for and on behalf of themselves, their heirs, executors, administrators and issue, but also for and on behalf of the person or persons entitled in remainder, reversion, expectancy or contingency, or for any other future estate or interest where such person or any of such persons, whether entitled to the next or any subsequent estate or interest, or any part thereof, shall not be ascertained, or shall be incapable of contracting for selling the same, and to and for all guardians on behalf of their respective wards, husbands on behalf of their respective wives, committees on behalf of the persons of whose estates they shall be committees, and the heirs, executors, administrators and issue of such wards, wives or persons respectively, and to and for all femes covert entitled in their own right to any such lands, mills, tenements or hereditaments, or to dower or to any other interest therein, on behalf not only of themselves, but also of their respective heirs, executors, administrators and issue; and also where such wards, wives, persons or femes covert respectively shall be tenants for life or in tail, or for years, or have any other partial or qualified estate or interest to and for such guardians, husbands, committees and femes covert, on behalf of the person or persons on behalf of whom such wards, wives, persons or femes covert respectively, if of full age, unmarried, and of sound mind, might have contracted for the same lands, mills, tenements or hereditaments, and to and for all and every other person or persons whomsoever who is, are or shall be seised or possessed of or interested in any lands, mills, tenements or hereditaments, which, or part of which, by the said Commissioner or Commissioners shall be thought necessary for any of the purposes aforesaid to contract for and sell the same, and every or any part thereof, to the said Commissioner or Commissioners; and all contracts and agreements which shall be made by such bodies politic, corporate or collegiate, trustee or trustees, or other person or persons as aforesaid, shall be valid and effectual in the law to all intents and purposes whatsoever; and all bodies politic, corporate or collegiate, and all persons whosoever contracting as aforesaid, are hereby indemnified for or in respect of any such sale which they, he, she or any of them shall respectively make by virtue or in pursuance of this Act.

24. When Parties refuse to accept satisfaction or to treat, or cannot be found, Commissioners to issue a Precept for impannelling a Jury.

And be it Enacted, That if any body or bodies politic, corporate or collegiate, trustee or trustees, or any other person or persons seised, possessed of or interested in or hereinbefore authorized to contract for and sell any lands, mills, tenements or hereditaments, or any share or shares, estate or estates, interest or interests therein, or charge or charges thereon as aforesaid, or any occupier or occupiers thereof sustaining any loss, injury or damage as aforesaid, for and on his, her or their part or parts, or for or on the part of his, her or their cestuique trusts or wards, or of any other person or persons as aforesaid, shall refuse to accept such purchase-money, satisfaction or recompense, or other compensation as shall be offered by the said Commissioner or Commissioners, or if any body or bodies politic, corporate or collegiate, or any person or persons seised or possessed of or interested in any such lands, mills, tenements or hereditaments as aforesaid, shall (upon such notice as hereinbefore is mentioned, having been left with the tenant or tenants, occupier or occupiers of such land, mills, tenements or hereditaments, or affixed upon the same premises) for the space of calendar Months next after such notice neglect or refuse to send in the particulars of their, his or her claim, or shall neglect or refuse to treat or agree, or shall not agree for the sale of such lands, mills, tenements or hereditaments, or other respective shares, estates and interests therein or charges thereon, or cannot be found or known, or shall not produce and evince a clear title to the premises they are in possession of, or to the interest they shall claim therein, to the satisfaction of the said Commissioner or Commissioners, then and in every or any such case the said Commissioner or Commissioners shall, and he and they is and are hereby empowered thereupon or at any time thereafter to issue a Warrant or Warrants, Precept or Precepts under his or their hand or hands to the Sheriff of the county wherein such lands, mills, tenements, hereditaments or any part thereof shall be situate, commanding such Sheriff to summon, return and impannel a Jury; and such Sheriff is hereby authorized and required accordingly to summon, return and impannel substantial and indifferent persons qualified to serve on Juries; and the persons so to be summoned, returned and impannelled as aforesaid are hereby required to come and appear before the said Sheriff at such time and place as in such warrant or warrants, precept or precepts shall be directed and appointed, and to attend before the said Sheriff from day to day until discharged; and out of such persons so to be summoned, returned and impannelled, a Jury of men shall be drawn in such manner as Juries for the trial of issues joined in His Majesty's Courts at Dublin are directed to be drawn; and in case a sufficient number of Jurymen shall not appear at the time and place appointed as aforesaid, some person to be by the said Sheriff appointed shall return other substantial, honest and indifferent men of the bystanders or others who can be speedily procured to attend that service, being so qualified as aforesaid, to make up the said Jury to the number of and all parties concerned shall and may have their lawful challenges against any of the said Jurymen, but shall not be at liberty to challenge the array; and the said Sheriff is hereby authorized and empowered from time to time, as often as occasion shall require, by precept or precepts to summon and call before him all and every or any person and persons whomsoever who shall be thought proper and necessary to be examined as a Witness or Witnesses on his, her or their oath or oaths, affirmation or affirmations, touching or concerning the premises; and the said Sheriff, if he thinks fits, shall and may, on the application of either party, likewise authorize the said Jury or any or more of them, either before or after they shall be sworn, to view the place or places and premises in question in such manner as he shall direct; and the said Sheriff shall have

Jury may be challenged.

have power to adjourn such meeting from day to day as occasion shall require, and to command such Jury, Witnesses and Parties to attend until all such affairs for which they were summoned shall be concluded; and the said Jury upon their oaths or affirmations (which oaths or affirmations, as well as the oaths or affirmations of such person or persons as shall be called upon to give evidence, the said Sheriff is hereby empowered and required to administer), shall inquire into, assess and ascertain and give a verdict for the sum or sums of money to be paid for the purchase or as a satisfaction or recompense for either the entirety of such lands, mills, tenements or hereditaments, or for any share or shares, estate or estates, interest or interests therein, or charge or charges thereon, as in such warrant or warrants, precept or precepts shall be directed, and the compensation which shall be made in respect of any injury or damage whatsoever to be sustained as aforesaid by any body or bodies politic, corporate or collegiate, person or persons, as in such warrant or warrants, precept or precepts shall be directed; and the said Jury in estimating such satisfaction or recompense shall take into their consideration the increase in value of the residue of any property of which such lands, mills, tenements or hereditaments shall form part in consequence of the improvements proposed to be made, and shall estimate such compensation by reference to what in the opinion of such Jury the property injured or damaged would have been worth if the improvements proposed to be made had not been in contemplation; and the said Sheriff shall give judgment for such purchase-money, satisfaction, recompense or compensation so to be assessed; which said Verdict or Verdicts and the said Judgment and Judgments thereupon shall be binding and conclusive to all intents and purposes upon all bodies politic, corporate or collegiate, and upon all persons whomsoever; provided that not less than Days' Notice in writing of the time and place at which such Jury are so required to be returned and meet be given to the person or persons interested, or left with the tenant or occupier of the said lands, mills, tenements or hereditaments, or affixed upon the said premises; and the said Verdicts, Judgments and Determinations and all other proceedings of the said Sheriffs and Juries so to be made, given and pronounced as aforesaid, shall be fairly written on parchment and signed by the Clerk of the Peace for the time being of the county wherein such proceedings shall take place.

Verdict of Jury to be final.

Previous notice being given to Parties interested.

25.
Verdict of value of lands and damages to be ascertained separately.

And be it Enacted, That the said Sheriffs and Juries shall award all Determinations, Judgments and Verdicts which they shall make and give in execution of the powers hereby vested in them concerning the Value of Lands, mills, tenements or hereditaments, or any share or shares, estate or estates, interest or interests therein, or charge or charges thereon, separately and distinctly from any loss or damage to be sustained by any person or persons in consequence of the execution of any of the powers of this Act, and shall distinguish the value set upon the hereditaments, or share or shares, estate or estates, interest or interests therein, charge or charges thereon, and the money assessed or adjudged for such loss or damage as aforesaid separately and apart from each other; and when any money shall be assessed or adjudged for such loss or damage as aforesaid, the Jury shall, if required, award and declare whether the statement delivered by the claimant or claimants of the manner in which any amount of money which shall have been demanded as a compensation for the same, has been computed and made up, gave sufficient particulars to enable the said Commissioner or Commissioners to make a proper offer.

26.
Jury to be under the same regulations as in the Courts in Dublin.

And be it Enacted, That every such Jury and Juryman as aforesaid, shall be under and subject to the same Regulations, Pains and Penalties, as if such Jury or Juryman had been returned for the trial of any issue joined in any of His Majesty's Courts of Record in Dublin, and that all and every person and persons who in any examination to be taken by virtue of this Act shall wilfully give false evidence before the said Sheriff, or before any such Jury as aforesaid shall and may be prosecuted for the same, and upon conviction thereof shall be subject to such punishments and disqualifications as any person or persons can or may be subject to for *Perjury* by the Laws and Statutes of this realm.

27.
By whom expenses of Jury shall be paid.

And be it Enacted, That in every case in which the said Commissioner or Commissioners shall have required a statement of the manner in which any amount of money which shall have been demanded as a compensation, has been computed and made up, and the Jury shall be of opinion that the statement delivered by the claimant or claimants did not give sufficient particulars to enable the said Commissioner or Commissioners to make a proper offer, then and in such case all the Costs and Expenses incurred in summoning, returning and impannelling such Jury, taking such inquisition, and the attendance of witnesses, and recording the verdict or judgment thereon, shall be paid and borne by such claimant or claimants; and in every other case where a verdict shall be given by any such Jury for more money than shall have been previously offered by or on behalf of the said Commissioner or Commissioners as a recompense or satisfaction for any such lands, mills, tenements or hereditaments as aforesaid, or for any such estate, right or interest therein, or for any damages that may have been sustained by any person or persons as aforesaid, all the costs and charges incurred as aforesaid shall be borne by the said Commissioner or Commissioners; and in every case, except as aforesaid, where a verdict shall be given by any such Jury for no more or for less money than shall have been previously offered by or on behalf of the said Commissioner or Commissioners, as such recompense or satisfaction as aforesaid, all the costs and charges incurred as aforesaid shall be borne in equal proportions by the party or parties refusing or neglecting to treat or agree as before mentioned, and by the said Commissioner or Commissioners; but in cases where any person or persons, party or parties shall have been prevented by absence from entering into any treaty with the said Commissioner or Commissioners, the costs and charges so incurred shall be borne by the said Commissioner or Commissioners in manner aforesaid; and in all cases where any difference shall arise touching the amount of the said costs and charges, the same shall be taxed by the Prothonotary or other proper officer for the time being of the Court of King's Bench in Dublin; and where the costs shall be payable by the party or parties having any such disagreement or dispute with the said Commissioner or Commissioners as aforesaid, the amount thereof having been first paid by the said Commissioner or Commissioners, may be deducted by him or them out of the monies awarded to be paid to such party or parties, as so much advanced for his her or their use; and the payment or tender of the balance of such money shall be deemed and taken to all intents and purposes whatsoever to be a payment or tender of the whole money awarded and adjudged to such party or parties: Provided always, That no Jury which shall be summoned by virtue of this Act, shall assess or award any sum or sums of money to any body or bodies politic, corporate or collegiate, person or persons, by way of compensation for any injury or damage in consequence of the execution of any of the powers of this Act, unless such a statement as hereinbefore is mentioned of the particulars of every such claim, shall have been given or left as aforesaid Days at least before the time of the meeting of such Jury: and provided also, That all the costs and charges hereinbefore directed to be borne by the said Commissioner or Commissioners, shall be accounted part of the expenses incident to the improvements made under this Act, and shall be paid by the proprietors of the lands improved pursuant to the award of the said Commissioner or Commissioners, to be made as hereinafter mentioned.

Notice of injury to be given, or Jury not allowed to award compensation for the same.

28.
Sheriff may fine Jurors or Witnesses for not attending.

And be it Enacted, That the said Sheriff shall have power and authority from time to time to impose any reasonable Fine, not exceeding the sum of on any of the persons summoned and returned on any such Jury or Juries who shall not appear, without some reasonable excuse, or shall refuse to be sworn on the said Jury or Juries, or being so sworn shall not give his or their verdict, or shall otherwise neglect his or their duty; and also on any Person or Persons summoned to give evidence touching any of the matters aforesaid, who shall not attend, having been paid or tendered a reasonable sum for his, her or their expenses, or shall refuse to be sworn or to affirm, or to give his, her or their evidence; and on any other person or persons who shall in any other manner wilfully neglect his, her or their duty in the premises, contrary to the true intent and meaning of this Act; and from time to time to levy a fine or fines by order of the said Sheriff, by distress and sale of the offender's goods, together with the reasonable charges of every such distress and sale, returning the overplus (if any) to the owner or owners, and that a copy of the order of the said Sheriff, signed by the Clerk of the Peace for the time being of the county, shall be sufficient authority to the person or persons therein to be appointed, and to every other person acting or aiding and assisting therein, to make such distress and sale; and all such fines shall be paid to The King's most Excellent Majesty.

29.
Verdicts and Judgments to be entered among the Records.

And be it Enacted, That all such Verdicts, Judgments, Sentences, Determinations, Orders and other Proceedings of every such Sheriff, as relate to or concern any of the cases before mentioned, and all receipts which the cashier or cashiers of the Bank shall give for any sum or sums of money paid into the Bank in manner hereinafter mentioned, in consequence of any verdict or judgment, shall be entered among the Records of the said Court of King's Bench in Dublin, and the said verdicts, judgments, sentences, decrees and orders, and other proceedings, shall be deemed and taken to be records to all intents and purposes whatsoever; and the same, or true copies thereof, shall be deemed and taken to be good and effectual evidence in any court or courts of Law or Equity whatsoever, and all persons shall and may have recourse to the same gratis, and take copies thereof, paying for every copy not exceeding   for every seventy-two words, and so proportionably for any greater or less number of words.

30.
Application of Purchase-money or Compensation when amounting to £. 200.

And be it Enacted, That if any Money shall be agreed or awarded to be paid for any lands, mills, tenements or hereditaments, or part or parts thereof, or share or shares, estate or estates, interest or interests therein taken or purchased by virtue of the powers of this Act, which shall belong to any body politic, corporate or collegiate, or which shall belong to any trustee or trustees or other person or persons who hath or have no power to give a valid receipt for the same, or to sell the same premises otherwise than by virtue of this Act, or for any estate of freehold belonging to a feme covert, such money shall in case the same (after such deduction, if any, for costs, as hereinbefore is mentioned) shall amount to the sum of Two hundred Pounds or upwards, with all convenient speed, be paid into the Bank of Ireland in the name and with the privity of the Accountant General of the Court of Chancery in Ireland, to be placed to his account there ex-parte the person or persons on whose behalf the same shall be so paid, pursuant to the method prescribed by an Act made in the twenty-third and twenty-fourth years of the reign of King GEORGE the third, chapter twenty-second, and the General Orders of the said Court, and without fee or reward, and shall, when so paid, be applied under the direction and with the approbation of the said Court, to be signified by an order made upon a Petition to be preferred in a summary way by the body or bodies, person or persons who would have been entitled to the rents and profits of the said lands, mills, tenements or hereditaments, in the redemption or discharge of any debt or debts, or such other incumbrances or part thereof as the said Court shall authorize to be paid, affecting the same lands, mills, tenements or hereditaments, or part or parts thereof, or share or shares, estate or estates, interest or interests therein, or charge or charges thereon, or affecting other lands, tenements or hereditaments standing settled therewith, to the same or the like uses, intents or purposes, or where such money shall not be so applied, then the same shall be laid out and invested, under the like direction and approbation of the said Court, in the purchase of lands, tenements or hereditaments which shall be conveyed and settled to, for and upon such and the like uses, trusts, intents and purposes, and in the manner as the lands, mills, tenements or hereditaments, or any part or parts thereof, shares, estates, interests or charges which shall be so taken or purchased as aforesaid, stood settled or limited, or such of them as at the time of making such conveyance and settlement shall be existing undetermined and capable of taking effect; and in the meantime and until such purchase shall be made, the said money shall, by order of the said Court, upon application thereto, be invested by the said Accountant General in his name, in the purchase of Three Pounds per centum Consolidated or Three Pounds per centum Reduced Bank Annuities; and in the meantime, and until the Bank Annuities shall be ordered by the said Court to be sold for the purposes aforesaid, the Dividends and annual produce of the said Consolidated or Reduced Bank Annuities shall from time to time be paid, by order of the said Court, to the body or bodies, person or persons who would for the time being have been entitled to the rents and profits of the said lands, mills, tenements or hereditaments so hereby directed to be purchased, in case such purchase and settlement were made.

31. Application where the compensation shall be less than £. 200, and exceed £. 20.

Provided always, and be it Enacted, That if any such money which shall be agreed or awarded to be paid for any lands, mills, tenements or hereditaments, or part or parts thereof, or share or shares, estate or estates therein, or charge or charges thereon, taken or purchased as aforesaid, belonging to any Corporation or any trustee or trustees, person or persons, or feme covert, as aforesaid, which (after such deduction, if any, for costs, as hereinbefore is mentioned) shall be less than the sum of Two hundred Pounds, and shall exceed or be equal to the sum of Twenty Pounds, then and in all such cases the same shall, at the option of the body or bodies, person or persons for the time being entitled to the rents and profits of the lands, mills, tenements or hereditaments, or parts, shares, estates, interests or charges so taken or purchased, or of the guardian or guardians, committee or committees of such person or persons in case of infancy or lunacy, to be signified in writing under their respective hands or seals, be paid in the name and with the privity of the said Accountant General of the Court of Chancery, to be placed to his account as aforesaid, in order to be applied in manner hereinbefore directed, or otherwise the same shall be paid at the like option to Trustees, to be nominated by the body or bodies, person or persons making such option, and approved of by the said Commissioner or Commissioners (such nomination and approbation to be signified in writing under the hands and seals or the seals of the nominating and approving persons), in order that such principal money and the dividends arising thereon may be applied in manner hereinbefore directed, so far as the case be applicable, without obtaining or being required to obtain the direction or approbation of the Court of Chancery.

32.
Application where the money is less than £.20.

Provided also, and be it Enacted, That where such money so to be paid as aforesaid shall be less than Twenty Pounds, then and in all such cases the same shall be applied to the use of the body or bodies, person or persons who would for the time being have been entitled to the rents and profits of the lands, mills, tenements or hereditaments, parts, shares, estates, interests or charges taken or purchased as aforesaid, in such manner as the said Commissioner or Commissioners shall think fit; or in case of the infancy or lunacy of such person or persons, then such money shall be paid to his, her or their guardian or guardians, committee or committees, to and for the use and benefit of such person or persons so entitled respectively.

33.
Purchase-money to be paid into the Bank where owners cannot be found or cannot make a good Title.

And be it Enacted, That if any body or bodies politic, corporate or collegiate, person or persons seised or possessed of or interested in any lands, mills, tenements, or hereditaments or share or shares, estate or estates, interest or interests therein, or charge or charges thereon as aforesaid, cannot be found, or shall not be known, or shall not make out and deduce a good Title to the premises to the satisfaction of the said Commissioner or Commissioners, then such sum or sums of Money as shall have been contracted and agreed or shall have been assessed and awarded by any Jury or Juries in manner aforesaid to be paid for the purchase or for the value of the same premises, after retaining thereout such costs and charges (if any) as are hereinbefore authorized to be deducted from the same, shall be paid into the Bank of Ireland in the name and with the privity of the said Accountant General of the said Court of Chancery, to be placed to his account to the credit of the party or parties interested in the said lands, mills, tenements or hereditaments, parts, shares, estates, interests or charges (describing such lands, mills, tenements or hereditaments); or if such party or parties shall not be known, then to the credit of the then unknown person or persons interested in the said lands, mills, tenements or hereditaments, parts, shares, estates, interests or charges (describing the same tenements or hereditaments), subject to the order, control and disposition of the said Court of Chancery; which said Court, on the application of any body or bodies, person or persons making claim to such sum or sums of money, or any part thereof, by motion or petition, shall be and is hereby empowered in a summary way, proceeding or otherwise, as to the same Court shall seem meet, to order the same to be laid out and invested in the public funds, and to order distribution thereof, or payment of the dividends thereof, according to the respective estate or estates, title or interest of the body or bodies, person or persons making claim thereunto, and to make such other order in the premises as to the said Court shall seem meet, just and reasonable; and the cashier or cashiers of the Bank of Ireland who shall receive such sum or sums of money is and are hereby required to give a receipt or receipts for such sum or sums of money, mentioning and specifying for what the same is or are received, to such person or persons as shall pay any such sum or sums of money into the Bank as aforesaid.

34. Premises purchased to vest in the Commissioners on payment of purchase-money.

And be it Enacted, That upon Payment or tender of the Purchase-money or compensation for any lands, mills, tenements and hereditaments, after deducting thereout such costs and expenses (if any) as aforesaid, to the person or persons entitled to receive the same, or into the Bank of Ireland under the provisions hereinbefore contained, the lands, mills, tenements or hereditaments, or parts, shares, estates, interests or charges for the purchase or as the value of which such purchase-money or compensation shall have been so paid or tendered, and the fee-simple and inheritance thereof, or other the absolute interests therein, together with the yearly profits, and all the estate, right, title, interest, use, trust, property, claim and demand in law and in equity of the body or bodies, person or persons, or unknown person or persons to whom or to whose credit such money shall be paid in, to and out of such lands, mills, tenements, hereditaments and premises, shall vest in the said Commissioner or Commissioners, and he and they shall be deemed in law to be in the actual seisin or possession thereof, to all intents and purposes whatsoever, as fully and effectually as if such person or persons and every body or person having any estate in the premises had actually conveyed the same by lease and release, bargain and sale, enrolled feoffment with livery of seisin, or any other conveyance or assurance whatsoever; and such payments shall not only bar all right, title, interest, claim and demand of the body or bodies, person or persons or unknown person or persons of, in or to the same premises, to whom or to whose credit such payment shall have been made, but also shall extend to and be deemed and construed to bar the dower and dowers of the wife and wives of such person or persons, and all estates tail and other estates in possession, reversion, remainder, expectancy or contingency, and the issue and issues of such person or persons, and every other person whomsoever.

35.
In case of a doubt upon the title, the Interest of the money paid into the Bank shall be paid to the person who was in possession of the premises when bought.

Provided always, and be it Enacted, That where any Question shall arise touching the Title of any body or bodies politic, corporate or collegiate, person or persons, to any money to be paid into the Bank of Ireland, in the name and with the privity of the Accountant General of the said Court of Chancery in pursuance of this Act, for the purchase of or in satisfaction for any lands, mills, tenements or hereditaments, or part or parts thereof, or of any estate, right, title, charge or interest in, to or upon any tenements or hereditaments to be taken or purchased in pursuance of this Act, or of any Bank Annuities to be purchased with any such money, or the dividends or interest of any such Bank Annuities, the body or bodies politic, corporate or collegiate, person or persons who shall have been in the possession of such mills, lands, tenements or hereditaments, parts, shares, estates, interests or charges at the time of such purchase, and all body or bodies, person or persons claiming under such person or persons, or under the possession of such body or bodies, person or persons, shall be deemed and taken to have been lawfully entitled to such tenements or hereditaments, parts, shares, estates, interests or charges, according to such possession, until the contrary shall be shown to the satisfaction of the said Court of Chancery; and the Dividends or Interest of the Bank Annuities to be purchased with such money, shall be paid, applied and disposed of accordingly, unless it shall be made to appear to the said Court that such possession was a wrongful possession, and that some other person or persons was or were lawfully entitled to such tenements or hereditaments, or part or parts thereof, or to some estate or interest therein or charge thereon.

36
Estate of Mortgagees to vest in Commissioners on payment of principal and interest.

And be it further Enacted, That if any person or persons shall have any mortgage or mortgages, or be entitled to any sum or sums of money due on judgment or other security, or otherwise charged on such lands, mills, tenements or hereditaments as shall be taken or purchased by virtue of this Act, or any parts or shares thereof by virtue of such mortgage or mortgages, or security or securities, then and in such case, on payment of the principal and interest due thereon to such mortgagee or mortgagees, person or persons, or into the Bank for the use of the mortgagee or mortgagees, or person or persons entitled thereto, all the Estate, right, title, interest, use, trust, property, claim and demand whatsoever of the said mortgagee or mortgagees, or other person or persons, and of all and every person or persons in trust for him, her or them, shall vest in the said Commissioner or Commissioners, and he and they shall be deemed to be in the actual possession of the premises comprised in such mortgage or mortgages, or other security or securities freed and discharged from the said mortgages securities, judgment or other debts, to all intents and purposes whatsoever: Provided always, That if the money and interest due in respect of any mortgage or mortgages, security or securities, charge or charges of any lands, mills, tenements or hereditaments, or part or parts thereof, which shall be purchased or taken by virtue of this Act, shall amount to more than the value of the premises charged therewith, or such of them, or of such part or parts thereof as shall be purchased or taken by virtue of this Act, then upon payment to such mortgagee or mortgagees, person or persons, or into the Bank in manner hereinbefore mentioned, of the sum to be ascertained as the value of the lands, mills, tenements or hereditaments, or part or parts thereof, so to be taken and purchased as aforesaid, all the estate, right, title, interest, property, claim and demand whatsoever of the said mortgagee or mortgagees, person or persons as aforesaid, and of all and every person or persons in trust for him, her or them, in the said lands, mills, tenements or hereditaments, or part or parts thereof, the value whereof shall have been so ascertained and paid as aforesaid, shall vest in the said Commissioner or Commissioners, and he and they shall be deemed to be in the actual possession of the said premises to all intents and purposes whatsoever, and freed and discharged as aforesaid; and the mortgagor or mortgagors, or other person or persons shall be and is and are hereby barred and foreclosed from all right and equity of redemption of and in the same premises, and all the estate, right, title, interest, property, claim and demand of him, her or them, and every person and persons in trust for him, her or them in the same premises, shall vest in the said Commissioner or Commissioners, and he and they shall be deemed to be in the actual possession thereof to all intents and purposes whatsoever.

Or if such principal and interest exceed the value of the property then on payment of the value;

and Mortgagors be foreclosed.

37.
Possession to be delivered upon Months' notice.

And be it Enacted, That all and every body and bodies, person and persons in the actual possession of any lands, mills, tenements or hereditaments, or any part thereof, to be taken or purchased by virtue of this Act, as owner, leaseholder, tenant at will or lessee for a year, or any shorter time, or otherwise, shall at the expiration of calendar Months from and after notice in writing from the said Commissioner or Commissioners shall have been left at the premises, or so soon after as he, she or they shall be required, peaceably and quietly deliver up the Possession of the said premises to the said Commissioner or Commissioners, or the person or persons authorized by him or them to take possession thereof; and in case any such body or bodies, person or persons shall refuse to give up such possession as aforesaid, then it shall be lawful for the said Commissioner or Commissioners to issue their precept or precepts to the Sheriff of the county wherein such premises shall be situate, to deliver possession of the said premises to such person or persons as shall in such precept or precepts be nominated to receive the same; and the said Sheriff is hereby required to deliver such possession accordingly of the said premises, and to levy such costs as shall accrue from the issuing of such precept or precepts on the person or persons so refusing to give up such possession as aforesaid, by distress and sale of his, her or their goods.

38.
Commissioners to account yearly.

And be it Enacted, That once at least in every half year the said Commissioner or Commissioners for the purposes aforesaid shall and he and they is and are hereby required to make out and prepare a true and just Account or statement of all sums of money by him or them received and expended, and such Account or statement when so made, together with the vouchers relating thereto, shall be by him or them laid before the Proprietors of the land so proposed to be improved, at some meeting to be held for the purpose of receiving and settling such Account, (such meeting to be called in the manner hereinbefore directed with respect to the sittings of the said Commissioner or Commissioners) to be by them examined and balanced, and such balance, if then and there agreed upon between the said Commissioner and Commissioners, and the major part in value or extent of the said Proprietors, shall be stated in the book of accounts to be kept by the said Commissioner or Commissioners.

39.
Commissioners shall inquire into the Boundaries of parishes and estates, and if not sufficiently ascertained, they shall fix them, giving previous notice their intention so to do,

AND whereas disputes or doubts may arise concerning the Boundaries of parishes, properties and estates adjoining or near to the lands improved, embanked, drained or otherwise improved under this Act, or adjoining or near to any other of the works to be executed under the provisions of this Act; BE it therefore Enacted, That the Commissioner or Commissioners appointed by this Act shall and he and they is and are hereby authorized and required by examination of witnesses upon oath or affirmation (which oath or affirmation such Commissioner or any one of such Commissioners is hereby empowered to administer), and by such other legal ways and means as he or they shall think proper, to inquire into the Boundaries of such several parishes, properties and estates; and in case it shall appear to such Commissioner or Commissioners that the Boundaries of the same respectively are not then sufficiently ascertained and distinguished, such Commissioner or Commissioners shall and he and they is and are hereby authorized and required to ascertain, set out, determine and fix the same respectively; and after the said Boundaries shall be so ascertained, set out, determined and fixed, the same shall be and are hereby declared to be the Boundaries of such parishes, properties and estates: Provided always, That such Commissioner or Commissioners (before proceeding to ascertain and set out the Boundaries of such parishes, properties and estates) shall and he and they is and are hereby required to give public notice by writing under his or their hand or hands, to be affixed on the most public doors of the Protestant Church or Chapel (if any), and also on the most public doors of the Roman Catholic Chapel (if any) in such parishes, and also by advertisement in some one newspaper usually circulated within the district of such parishes, properties and estates, and also by writing to be delivered to or left at the last or usual places of the abode of the respective owners or proprietors of any properties or estates in which the lands and grounds to be reclaimed or improved shall be situate, and of such adjoining properties or estates, *Ten* Days at least before the time of setting out such Boundaries, of their intention to ascertain, set out, determine and fix the same respectively; and such Commissioner or Commissioners shall within *One* Month after ascertaining and setting out the same Boundaries, cause a description thereof in writing to be delivered to or left at the place of abode of the Clerk of the Peace of the county in which such lands and grounds shall be situate, and also of such respective owners or proprietors or their agents or stewards: Provided always, That if any person or persons interested in the determination of the said Commissioner or Commissioners respecting the said Boundaries shall be dissatisfied with such determination, such person or persons may appeal to the next coming Judge of Assize for the county in which such lands or grounds shall be situate; the party or parties making such appeal giving *Eight* Days' notice of such appeal and of of the matter thereof in writing to the Commissioner or Commissioners; and the Decision of the said Judge therein shall be final and conclusive, and shall not be removed or removable by certiorari, or any other writ or process whatsoever, into any of His Majesty's Courts of Record at Dublin or elsewhere.

Commissioners shall cause a description of Boundaries to be delivered to Clerk of the Peace, and owners or proprietors of lands to be inclosed, or their agents or stewards.

Persons dissatisfied may appeal to the Judge of Assize.

Decision of Judge to be final.

40.

And be it Enacted, That no Commission to be issued as aforesaid shall have longer continuance than for the term of *Five* Years, to be computed from the issuing thereof, except that it shall be lawful for the Lord Lieutenant, or other Chief Governor or Governors of Ireland for the time being, if he or they shall so think fit, by warrant under his or their hand or hands issued out more than *Six* calendar months before the expiration of any such Commission, to continue the same for any further time not exceeding *Two* Years from the expiration of the former Commission.

41.

Commissioners to make Award.

And be it Enacted, That as soon as conveniently may be after any embankments, drainage or other improvements shall have been finished under this Act, the Commissioner or Commissioners shall in every case form and draw up, or cause to be formed and drawn up, an Award or instrument in writing which shall express the quantity of acres, roods and perches in statute measure contained in the said lands so improved, embanked and drained, and the situations and descriptions of the same respectively, and the quantity and contents of each owner's property therein, and other the improvements effected under any such Commissioners by virtue of this Act; and such Award shall also apportion the amount of the sums which shall have been expended in and about the improvements which shall have been made, and of all expenses incident thereto upon the lands so improved, and upon the estates of which such lands form part respectively, or which shall be held with such lands under the same instrument, or the same set of instruments, and shall also specify the amount of the contribution which the owner or owners of such lands and estates respectively shall pay towards the total amount so expended, and all the expenses incident to the said improvements; and in case of any rivers, streams or lakes being connected the one with the other, or rendered navigable under this Act, the said Award shall specify the amount of the contribution to be borne in respect of the connection of or the rendering navigable such rivers, streams or lakes, separately and distinctly from the amount of the contribution to be borne in respect of the other improvements made under this Act, and the sums specified in such Award, as the amount of the contribution so to be paid towards the total amount so expended as aforesaid, with interest at the rate of Pounds per centum per annum, from the date of such Award, shall be and be considered as charges upon the lands and estates for or in respect of which such sums shall by the said Award be directed or required to be paid; and the said Commissioner or Commissioners shall also cause to be inserted in every such Award, proper orders and directions of and concerning the laying out, making, maintaining, cleansing and keeping in repair the watercourses, sluices, drains, ditches, cuts, rivers, lakes, streams, tunnels, culverts, banks, bridges, outlets, weirs, engines, embankments, fences and other works to be made under this Act, and all such other rules, orders, agreements, regulations, directions and determinations, as the said Commissioner or Commissioners shall think necessary and proper; and the said Commissioner or Commissioners shall also cause to be specified in every such Award the proportion or contribution to which the lands so improved and the estates of which such lands form part respectively, or which shall be held with such lands under the same instrument or the same set of instruments, and the respective owners thereof, shall in future be subject and charged with towards the costs and expenses which may from time to time be incurred in or about the maintaining, cleansing and keeping in repair the said watercourses, sluices, drains, ditches, cuts, rivers, lakes, streams, tunnels, culverts, banks, bridges, outlets, weirs, engines, embankments, fences and other works; specifying in such Award the amount of the proportion or contribution to be borne for maintaining and keeping in repair any works connected with such rivers, streams or lakes as aforesaid, distinctly from the

the amount of the proportion or contribution to be borne in respect of the maintaining and keeping in repair such other improvements as aforesaid; and every such proportion or contribution as hereinbefore mentioned, shall be stated and fixed as and at so many parts of an unit, and shall be charged and chargeable upon such Lands and Estates respectively as aforesaid, as a rate or tax for keeping the same works in a proper state and condition, and shall and may be levied upon or in respect of the same lands and estates, and the owners thereof respectively, as often as any monies shall from time to time be expended in any such works.

42. Lands may be allotted to persons contracting for works.

And be it Enacted, That it shall be lawful for the Commissioner or Commissioners under this Act, by his or their award, to allot any part of the Lands so improved, embanked and drained as aforesaid, to any persons or persons with whom the said Commissioner or Commissioners should have contracted for the improvement, embankment and drainage of any Lands, or for any other improvements made under this Act, and who shall have actually performed his, her or their contract or contracts to the satisfaction of the said Commissioner or Commissioners in lieu of such person or persons being paid in money for the work done by him, her or them, under such contract or contracts; and the Lands so allotted to any such person or persons shall, by virtue of the said award, vest in him, her or them, for such estate or interest as shall be expressed in such award, freed and discharged of and from all estates, interests, charges and incumbrances then affecting the same; and such person or persons shall be subject to such contribution towards the cost and expense to be in future incurred, in or about the maintaining, cleansing and keeping in repair the said watercourses, sluices, drains, ditches, cuts, rivers, lakes, streams, tunnels, culverts, banks, bridges, outlets, weirs, engines, embankments, fences, and other works, as shall be stated and fixed on the said award.

43. Lands may be exchanged.

And be it Enacted, That it shall be lawful for the said Commissioner or Commissioners under this Act, by his or their award, to allot any of the Lands so improved, embanked or drained as aforesaid, or any lands, tenements or hereditaments adjoining or near thereto, or to any of them, in lieu of, and in exchange for, any other of the Lands to be so improved, embanked or drained, or any lands, tenements or hereditaments adjoining or near thereto, in such manner as to the said Commissioner or Commissioners shall seem fit and proper; and every such exchange shall be good, valid and effectual in the law to all intents and purposes whatsoever.

44. Lands allotted to remain to same uses.

Provided always and be it Enacted, That all Lands, tenements and hereditaments, to be allotted by the said award, shall be and remain to and upon the same Uses, trusts, interests, and purposes, and subject to the same charges as the lands, tenements and hereditaments in respect whereof or in exchange for which the lands, tenements and hereditaments so allotted, stood limited or subject to prior to such award, or would have stood limited, or subject to if the award had not been made.

45.
Award to be deposited.

And be it Enacted, That every Award of the Commissioner or Commissioners under this Act, shall within *Six* calendar Months next after the execution thereof be deposited with the Clerk of the Peace for the county or one of the counties wherein improvements are made, who is hereby authorized and required to receive and deposit the same amongst the records of such county, upon receiving a fee of *One* Guinea for so doing.

46.
If any Owner be dissatisfied with Award, Jury to be summoned.

Provided always, and be it Enacted, That if any Owner or Owners, whether absolute or partial, shall be dissatisfied with the Award of the said Commissioner or Commissioners, as to the apportionments which shall have been thereby made, or any of them, or any others of the matters therein contained, it shall be lawful for such party or parties to signify his, her or their dissent in writing to the said Commissioner or Commissioners at any time within calendar Months next after the date of the Award; and the said Commissioner or Commissioners shall forthwith forward such dissent, together with a warrant containing an extract from the Award of such part thereof as relates to the apportionment or apportionments, or other matters objected to, to the Sheriff of the county within which the lands to which such apportionment or apportionments, or other matters relate shall be situate, and which warrant shall be a sufficient authority to such Sheriff to hold an inquisition in pursuance thereof; and such Sheriff shall and he is hereby authorized and required within *Twenty* Days next after the receipt of such warrant, to summon and impannel a Jury as in cases of inquisition, and such Jury shall consider and confirm or alter and amend the apportionment or apportionments, or other matters objected to, and shall make such order as to the payment of the costs of such proceedings as they shall think fit; and such apportionment or apportionments, or other matters, when so confirmed or altered and amended, and such order as to costs, shall be final and conclusive; and for the purposes of such inquisition the said Sheriff shall and he is hereby authorized and required to summon any witness or witnesses to attend such inquisition, and to administer the usual oaths to such Jury and witness or witnesses respectively; and every such inquisition shall be deemed and taken to be an inquisition in the County Court of such Sheriff; and such Sheriff shall have all the powers and authorities as to such inquisition as he by law possesses for any other inquiry in such County Court; and the finding of such Jury as to such inquisition shall be signed by such Sheriff, and shall be de-

Powers of Sheriff.

posited with the said Clerk of the Peace, who is hereby authorized and required to receive and deposit the same, together with the said Award, amongst the records of the county, upon receiving such fee as aforesaid, and shall be enrolled as of record in such County Court, and a copy thereof shall forthwith be certified under the hand and seal of such Sheriff, and transmitted by such Sheriff to the said Commissioner or Commissioners, by whom the warrant shall have been sent.

47. Apportioned Expenses on Lands to have priority over other charges.

And be it Enacted, That every such apportionment as shall be so made as aforesaid by the award of the said Commissioner or Commissioners, or by the Jury as aforesaid, as the case may be, shall be and the same is hereby declared to be a Charge on the respective Lands and Estates in respect of which such apportionment shall have been made in priority over all other interests and incumbrances in or upon such Lands and Estates.

48. In case of non-payment of money so charged, it may be levied by distress.

And be it Enacted, That if Default shall be made in the payment of the sum or sums charged on and made payable out of any such lands and estates by virtue of such award, for the improvements which shall have been made as aforesaid, it shall and may be lawful for the Commissioner or Commissioners to enter into and upon such lands and estates, and to levy by Distress and sale of any goods or chattels which may be found thereon, the sum or sums so due and in arrear, together with all costs and charges attending such distress and sale, rendering the overplus (if any) to the owner of such goods or chattels; and in case sufficient goods and chattels to satisfy such sum or sums so due, with the costs and charges aforesaid, cannot be found thereon, then and in such case it shall and may be lawful for the said Commissioner or Commissioners or any person or persons for that purpose authorized by him or them to enter upon the said Lands and Estates, and the rents and profits thereof to receive and take, until thereby or otherwise the sum so due, together with all costs and expenses attending or occasioned by such entry and receipt of the rents, profits and issues of such Lands and Estates shall be fully paid and satisfied.

If there is not goods or chattels sufficient, the Commissioners may enter upon the Lands.

49. If Lands are untenanted and Commissioners shall not choose to enter upon them, goods and chattels thereafter found shall be liable.

And be it Enacted, That in case any Lands or Estates in respect whereof any sum or sums so due shall remain unpaid as aforesaid, shall at any time be untenanted or unoccupied, so that sufficient distress cannot be found whereon to levy the same, and the said Commissioner or Commissioners shall not think proper to enter upon the same as aforesaid, then the said Lands and Estates shall remain liable thereto; and all Goods and Chattels which shall at any time thereafter be found thereon, shall and may be distrained and sold in manner aforesaid, until all arrears and the charges of such distress and detaining, keeping and selling the same shall be fully paid and satisfied.

50.
Power to borrow Money.

And be it Enacted, That it shall and may be lawful to and for the owners and proprietors, and also to and for the husbands or guardians, trustees or committees or attornies, or persons acting as guardians, trustees, committees or attornies for the owners and proprietors of the lands improved under this Act, being under coverture, minors, lunatics, or beyond the seas, or otherwise incapable to act for themselves, and to and for every of them for the time being, and for any of the said owners or proprietors being tenants in tail or for life only, and to and for every of them respectively for the time being, to raise and borrow the Sum or Sums charged upon their lands and estates respectively by the award of the said Commissioner or Commissioners, or by a Jury as aforesaid, for the improvements which shall have been made as aforesaid, and for securing the repayment of all and every such sum and sums of money, with interest, to grant, mortgage, lease or demise, or otherwise subject the lands and estates belonging to them respectively unto such person or persons as shall advance and lend such sum or sums of money respectively for any term or number of years, so as every such grant, mortgage, lease or demise be made with a proviso or condition to cease and be void, or with an express trust to be surrendered when such sum or sums of money thereby to be secured, with the interest thereof, shall be fully paid and satisfied, and so as every such grant, mortgage, lease or demise do also contain a proviso that the person or persons entitled in remainder or reversion to any such lands shall not be liable, upon his, her or their becoming possessed thereof, to the payment of any further or larger arrear of interest than for *One* Year preceding the time that his, her or their title to such possession shall have commenced.

51.
Tenants for life, &c., paying expenses to have charges on the inheritance for the amount.

And be it Enacted, That it shall be lawful for any Tenant or Tenants in tail or for life or for any other partial interest of any of the said lands and estates, by any deed or deeds in writing, or his, her or their last will and testament duly executed according to law, to charge such lands and estates as shall not have been so mortgaged or charged with such sum or sums of money as shall be awarded by the Commissioner or Commissioners or Jury to be paid, and which shall have been accordingly paid by such respective Tenant or Tenants in tail or for life or for any other partial interest for his, her or their share or proportion of the Costs, Charges and Expenses of the improvements which shall have been so made as aforesaid; which sum and sums of money so to be charged as aforesaid shall be payable within *One* Year next after the decease of every such tenant in tail or for life, or for any other partial interest, with interest for the same not exceeding the rate of *Five* Pounds per centum per annum, to be computed from his, her or their decease or respective deceases, unto such person or persons as such tenant or tenants in tail or for life or for any other partial interest, shall by such deed or will and testament respectively direct or appoint, and in default of such direction and appointment, the sum and sums of money which shall have been so paid by such respective tenant or tenants in tail or for life, or for any other partial interest as aforesaid, with interest for the same after the rate aforesaid from his, her or their decease or respective deceases, shall be payable within the said period of *One* Year to his, her or their respective executors or administrators.

52. All Charges to be valid.

And be it Enacted, That every such grant, mortgage, lease or demise, and every such Charge as aforesaid to be made of or upon any of the said lands and estates under or by virtue of this Act, shall be good, valid and effectual in the law, notwithstanding the want of any title in the person or persons making the same, and notwithstanding any will, settlement, trust, use, remainder, limitation or other incumbrance of or concerning the said lands and estates or any part or parts thereof then in being or taking effect, to the contrary.

53. Power of Lease and Allotments.

And be it Enacted, That it shall be lawful for any tenant or tenants in tail or for life, or for any other partial interest, if any of the lands allotted to him, her or them by the said award to lease such lands for such term or terms of years at such yearly rent or rents, and under and subject to such covenants and agreements as shall be fixed on and approved of by the Commissioner or Commissioners acting under this Act.

54. Power to Commissioners to borrow Money to be afterwards repaid with interest.

And be it Enacted, That it shall be lawful for the said Commissioner or Commissioners for the purposes aforesaid to borrow and take up at interest of any person or persons, party or parties willing to advance and lend the same, such sum or sums of Money as shall from time to time be necessary for defraying the expenses of executing the works and purposes proposed to be made and effected until the same shall be raised by the ways and means hereinbefore directed; which sum or sums of Money so to be borrowed shall be repaid with lawful interest to the person or persons, party or parties advancing the same out of the first monies to be raised under or by virtue of the award of the said Commissioner or Commissioners.

55. Power to Commissioners to apply to the Commissioners appointed under 1 & 2 Will. 4. c. 33, for loan.

And be it Enacted, That it shall and may be lawful for any Commissioner or Commissioners appointed for the purposes aforesaid to apply to the Commissioners appointed for carrying into execution the purposes of an Act passed in the first and second years of the reign of His present Majesty, intituled, "An Act for Extension and Promotion of Public Works in Ireland," for the Loan at interest of any sum or sums of money for defraying the expenses of any such improvements so proposed to be or in course of being made; and in every such case it shall be lawful for the said Commissioner or Commissioners appointed for effecting such improvements to assign, transfer and assure unto the Commissioners appointed for carrying the purposes of the said Act into execution the sums of money to be thereafter by the award of such Commissioner or Commissioners for effecting such improvement charged upon and made payable out of the lands so improved, and the estates of which such lands form part respectively; and the sums which shall be so assigned, transferred or assured, or an equal portion thereof, shall from and after the execution of the award be and become payable to the said Commissioners for carrying the purposes of the said Act into execution for and in satisfaction of the Loan so made by them and the interest thereof.

56. Commissioners of 1 & 2 Will. 4. empowered to advance money.

And be it Enacted, That it shall and may be lawful for the Commissioners appointed for carrying the purpoes of the said recited Act into execution, to receive any such application which shall be so made to them, and if they shall think proper and the Lords Commissioners of His Majesty's Treasury shall consent thereto, to advance and lend the Sum or Sums so applied for at any rate of interest of not less than per centum per annum, upon such terms as the parties shall mutually agree upon, and the said Lords Commissioners shall approve of; any provision, clause, matter or thing whatsoever in the said recited Act to the contrary notwithstanding.

57. Commissioners of 1 & 2 Will. 4. may allow Money to be repaid by Instalments.

And be it Enacted, That it shall be lawful for the Commissioners appointed for carrying the purposes of the said recited Act into execution, after any such works and improvements as aforesaid shall have been completed, and the award of the Commissioner or Commissioners for effecting the same shall have been made, to enter into any arrangement with any owner or proprietor, whether absolute or partial, for payment of any Sum payable to the said Commissioners of the said recited Act and the interest thereof, by such yearly Instalments as shall be mutually agreed upon; provided, that the times fixed for payment of the full amount of any such Sum and the interest thereof shall not extend beyond a period of Years.

58. Where Loan made by Commissioners of 1 & 2 Will. 4. Works to be carried on under their control.

And be it Enacted, That wherever any Works or Improvements shall be carried into execution wholly or partly by means of money advanced by the Commissioners appointed for carrying the purposes of the said recited Act into execution, then and in every such case all such Works and Improvements shall be carried on, and all payments made under the direction and subject to the control of the said Commissioners of the said recited Act.

59. Power to levy Tolls on Vessels using Rivers, &c., rendered navigable under this Act.

And be it Enacted, That if any Rivers, Streams or Lakes shall be rendered navigable under the provisions of this Act, then the said Commissioner or Commissioners shall, by his or their award, fix the Tolls to be paid by any ships, boats, barges or vessels using or navigating such Rivers

Rivers, Lakes or Streams; and it shall be lawful for the Commissioners for the time being, acting under the Act passed in the first and second years of the reign of his present Majesty, intituled, "An Act for the Extension and Promotion of Public Works in Ireland," to alter and change such Tolls, or any of them, from time to time, as they shall think fit; and the Tolls for the time being payable under this clause, shall and may be from time to time levied by the trustees to be appointed as hereinafter mentioned, and shall be applied by them in the manner hereinafter provided.

60. Power to let the Tolls.

And be it Enacted, That it shall be lawful for the said Commissioner or Commissioners until he or they shall have made his award, and afterwards for the trustees to be appointed as hereinafter mentioned, if he or they shall think fit, by public bidding from time to time to let, and from time to time to relet, all or any of the Tolls payable under the provisions of this Act, for times not exceeding *Ten* nor less than *Five* years, on such conditions, and with such security for payment of the rent reserved in such lease as the said Commissioner or Commissioners, or the said trustees shall think fit, and said Commissioners of Public Works shall from time to time approve: Provided always, That every such lease shall contain a covenant on the part of the lessee or lessees, to keep such work in repair (so far as the ordinary wear and tear of such work may render necessary), and shall also contain a power of writing on non-payment of such rent, or non-performance of such covenant for repairs, within *Three* calendar months after the same shall become due, or after any breach of any such covenant, and a power to such Commissioner or Commissioners, or the said trustees, at any time to put an end thereto, on giving *Three* calendar months' notice to the lessees or lessee thereof, of an intention so to do: Provided always, That nothing in this Act contained shall be construed to extend to or affect any tolls already raisable or payable by virtue of the provisions of any Act of Parliament passed before the passing of this Act.

61. Application of Tolls.

And be it Enacted, That the Tolls payable under the provisions of the Act, or the rent payable under any lease thereof, shall be applied in manner following; (that is to say) first in repairing the cuts, canals or other works in respect of which such Tolls or rents shall be payable, and the surplus of such Tolls or rent shall be invested in Public or Government securities, and sufficient to accumulate so as to form a fund for the future improvement of such works; and such fund shall be applied for such purpose, at such time and in such manner as the said Commissioner or Commissioners or trustees shall from time to time direct, and the said Commissioners of Public Works shall from time to time appoint.

62. Power of enforcing Payment of Tolls.

And be it Enacted, That it shall be lawful for the said Commissioner or Commissioners, or the said trustees, in cases in which such Tolls shall not be leased or let, and for the lessee or lessees of such Tolls, if leased or let, from time to time to appoint sufficient collectors and officers or agents for the purpose of receiving the Tolls payable under this Act; and in case any person liable to pay such Tolls shall refuse or neglect to pay the same, it shall be lawful for the said Commissioner or Commissioners or trustees, or for the lessees or lessee of the said Tolls, or their officer or agent, or other person to whom such Tolls ought to have been paid, to seize the vessel, goods, articles and things in respect of which such tolls ought to have been paid, wherever the same may be found, and to detain the same until such Tolls, together with the reasonable cost and expenses of such seizure and detention, shall be paid; and if such vessel, goods, articles and things shall not be redeemed within *Twenty-one* days after the seizure thereof, the same shall be appraised and sold, and, after deducting the costs of such seizure, detention and sale, all such sums as shall be due in respect of such Toll shall be satisfied thereout, and the overplus paid to the owner, in like manner as the law directs in cases of distress for rent in arrear.

63.
Bye-laws may be made for payment of Tolls and use of Piers, &c.

And be it Enacted, That it shall and may be lawful for the Commissioner or Commissioners, or the said trustees, to make such Bye-laws, rules and regulations for the Payment of Rates or Tolls in and for the use and occupation of any such Pier, harbour or quay, and the preservation and safe keeping of the same, such Bye-laws, rules and regulations not being contrary to the laws or statutes of the realm, as the Directors of General Inland Navigation in Ireland were enabled to make and establish under any Act or Acts for promoting Inland Navigation, or as the said Commissioners of Public Works are now enabled to do under the provisions of the said Act of the first and second years of His present Majesty's reign, vesting the powers and authorities theretofore enjoyed by the said Directors General in the said Commissioners of Public Works; and any person or persons guilty of any breach of, or offending against any such Bye-laws, rules or regulations, shall and may be proceeded against, and shall incur a like penalty or forfeiture, to be levied and enforced in like manner as in the case of any person offending against the bye-laws, rules or regulations at any time made by the said Directors General, or by the said Commissioners in respect of any canal or navigation.

64.
Grants may be made by Commissioners of Public Works, for certain purposes.

And be it Enacted, That it shall be lawful for the said Commissioners of Public Works, with the consent and approval of the Lords Commissioners of the Treasury, to make Grants in aid of the making of any cuts, canals or other works which may be undertaken by virtue of this Act, for connecting one or more river or rivers, lake or lakes, with any other river or rivers, lake or lakes, or with the sea, and in aid of the rendering any river or rivers, lake or lakes navigable, and that on the same terms and subject to the like conditions and regulations as to the amount of such grants and all other particulars as by the said Act passed in the first and second years of His present Majesty's reign is provided in respect of grants in aid of the construction and making of roads and bridges, and the erection of small harbours, piers and quays on the sea coast of Ireland, and with the like powers and authorities in relation thereto, save as such conditions and regulations, powers and authorities were altered by the said Act passed in the sixth and seventh years of His present Majesty's reign, for amending the said Act passed in the first and second years of His present Majesty's reign.

65.
After receipt of Award and of report of completion of the works, Chief or Under Secretary of Lord Lieutenant to summon a Meeting of Owners of lands benefited, to elect Trustees.

And be it Enacted, That so soon as it may be convenient after the receipt of the said Award and the Report of the engineer or surveyor, certifying the completion of the works authorized to be made by the said Commissioner or Commissioners under the said Commission, the Chief or Under Secretary to the Lord Lieutenant or other Chief Governor or Governors of Ireland shall summon a Meeting of all the persons who shall appear by the Award aforesaid to be Owners of any Lands, grounds or premises benefited or improved by such works; and notice of such Meeting shall be given in some one newspaper usually circulated within the district at least *Thirty* Days before the day appointed for any meeting; and the party seised of the first vested estate of freehold in any lands, grounds or premises shall for the purpose of such Meeting be deemed the owner thereof; and in default of the attendance of such person, then the actual occupier thereof shall be deemed and taken to be such owner, and vote thereat accordingly, and no two persons shall have a right to vote in respect of the same lands, grounds or premises; and the persons assembled at such Meeting shall in the first place elect a Chairman to preside at such Meeting, and shall next proceed to the election of Trustees for preserving, maintaining, repairing and keeping in repair the works completed and executed by the said Commissioners; and such Trustees shall be not fewer than *Five* or more than *Twelve* persons, and shall be either actually land-owners or persons entitled so to be deemed under the provisions aforesaid; and all persons who shall have been assessed for the expense of executing such works in the sum of *Ten* Pounds shall have one vote at such Meeting, and all persons assessed in the sum of *Twenty* Pounds shall have two votes, and so on in progression of one vote for every complete sum of *Twenty* Pounds in which such land-owners may have been assessed, but so that no land-owner shall have more than *Six* votes in the whole, whatever be the sum in which he may have been assessed; and in case of an equality of votes at such Meeting, the Chairman of such Meeting shall, besides any vote or votes to which he may be entitled as an assessed land-owner, also have a casting and decisive vote; and such Chairman shall certify under his hand and seal the names of the persons so elected such Trustees as aforesaid, and deliver such certificate to the Clerk of the Peace of any county within which any of the lands comprised within the limits of the jurisdiction of such Trustees may be, to be by him preserved among the records of the county; and such certificate shall be to all intents and purposes conclusive of the due election of the persons therein named.

66.
Trustees to remain in office for Three Years and to summon Meeting of Land-owners to elect new Trustees every Three Years.

And be it Enacted, That the said Trustees first appointed as aforesaid shall continue and remain in office and act as such for the term of *Three* Years from the date of their election, and no longer; and at least *Ten* Days before the expiration of such term of *Three* Years the Trustees for the time being shall summon by public advertisement, and otherwise as they shall think fit, a Meeting of all the Owners for the time being of all lands, grounds or premises benefited or improved by the works executed under the Commission aforesaid; and the same regulations with respect to the right of persons to vote, and of the manner of voting thereat, shall apply and be observed at such Meeting as at the first Meeting for the election of Trustees; and at such Meeting a like number of persons as were chosen at such first Meeting shall be chosen to act as Trustees for the next ensuing *Three* Years, in the room of such outgoing Trustees, and with the like powers and authorities; and the election of such Trustees shall be certified in like manner as the election of the first Trustees elected under this Act; and such certificate shall be lodged in like manner, and be alike conclusive of the election therein certified to have been made, and so on for ever, a new election of Trustees being made and certified in like manner and form every *Three* Years: Provided always, That any outgoing Trustee may be re-elected, and shall in such case continue and remain in office until the next triennial election, any thing herein contained to the contrary notwithstanding: And provided further, That if any Trustee shall before the expiration of the *Three* Years for which he may have been elected to act as a Trustee, die or resign, or become disqualified to act as such, it shall and may be lawful for the remaining Trustees to elect some other Land-owner qualified as aforesaid to be a Trustee in the place of the Trustee so dying, resigning or becoming disqualified as aforesaid; and such Trustee so elected to fill such vacancy, shall remain and continue in office as such Trustee so long only as the Trustee in whose place or stead he may be elected would have been entitled to have continued and remained in office.

Trustee dying, resigning, &c., a new one to be elected by Trustees out of the Land-owners.

67.
Notice of Meetings of Trustees to be given by public Advertisement or by personal service.

And be it Enacted, That Notice of all Meetings to be held by the Trustees in pursuance of this Act (except where it shall be herein otherwise directed) shall be inserted in some *One* Newspaper usually circulated within the district of the jurisdiction of such Trustees, at least *Thirty* Days before the day appointed for any meeting; or such Notice thereof shall be delivered to the said Trustees personally, or left at their usual place or places of abode, or given and published in such other manner as the said Trustees at any previous meeting shall think

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fit to order and direct; and it shall be lawful for such Trustees to adjourn such Meetings from time to time as may be convenient; and all Orders and Determinations of the Trustees in execution of this Act shall be made at meetings to be held pursuant to the provisions hereof, and not otherwise; and that no order or determination shall be made unless the major part of the Trustees present shall concur therein; and that all acts, orders and proceedings in execution of this Act, and all the powers and authorities vested in the said Trustees generally, shall and may be had, made, done and exercised by the major part of the Trustees who shall be present at the respective meetings to be held by virtue of this Act, the whole number present not being less than *Five*; and that all acts, orders or proceedings had, made or done by or before such *Five* Trustees shall have the same force and effect and be binding and conclusive on all persons and to all intents and purposes whatsoever as fully and effectually as if the same were had, made, done or executed by or before all the said Trustees; and that a chairman shall and may in the first place be appointed at every meeting to be held by virtue and for the purposes of this Act, who in case of an equal number of votes (including the chairman's vote) shall have the casting or decisive vote; and that no Order or Determination at any meeting of the said Trustees once made, agreed upon or entered into, shall be revoked or altered at any subsequent meeting, unless notice of the intention to make such Revocation or alteration shall have been given by *Five* or more Trustees, by writing under their hands, to the clerk to the said Trustees at a previous meeting, and entered in the book of proceedings of such meeting, and expressed in the notice convening such subsequent meeting, nor unless such revocation or alteration shall be agreed to be made by a greater number of Trustees than concurred in the making of any such order and determination.

Proceedings at Meetings of Trustees.

Revocation of orders.

68.
Trustees to order books of accounts to be kept.

And be it Enacted, That the said Trustees shall and they are hereby required to order and direct a Book or Books to be provided and kept by their clerk or clerks for the time being, in which book or books shall be entered true and regular Accounts of all sums of money received, paid, laid out and expended for and on account of any of the purposes of this Act, and of the several articles, matters and things for which any sums of money shall have been disbursed, laid out and paid, which book or books shall at all reasonable times be open to the inspection of the said Trustees; and the Trustees shall from time to time cause such Accounts to be duly made up and balanced on the appointment of trustees to succeed them pursuant to the provisions of this Act; and within *Seven* Days next after such appointment, deliver such accounts, and make payment of all monies arising by virtue of this Act and then in their hands, to the succeeding trustees, to be by them applied to the purposes of this Act.

69.
Trustees may enter into Contracts.

And be it Enacted, That it shall and may be lawful to and for the said Trustees, by advertisement to be inserted in some newspaper printed or generally circulated within the district of the jurisdiction, to appoint a time and place to receive proposals from, and to enter into, make and execute Contracts for any term not exceeding *Three* years, with any engineer, engineers or workmen or other person or persons not being a trustee, or in any manner otherwise employed by the said Trustees for maintaining, preserving and repairing any of the works which they may be hereby required or authorized to maintain, preserve and repair, and for providing proper engines, utensils and materials for that purpose, and all other matters, articles and things concerning the same; and all such contracts so to be made shall be entered in a book to be kept for that purpose, and signed by the party or parties making such contract, and by the said Trustees, and shall be good, valid and effectual in law without any more formal or further deed or instrument whatsoever.

70.
Works to be sustained by the Trustees.

And be it Enacted, That it shall be lawful for the said Trustees for the time being to perform and execute any Works which shall or may be proper or necessary for maintaining, cleansing and keeping in repair any watercourses, sluices, drains, ditches, cuts, canals, rivers, lakes, streams, tunnels, culverts, banks, bridges, outlets, weirs, engines, embankments, fences or other works, which shall have been made for improving any lands as aforesaid, or by means whereof any such lands shall be kept in proper condition, when and as often as any such works shall from time to time be necessary.

71.
Power for Surveyors of Counties to inspect Works and direct Repairs; and if Trustees neglect to repair, the Board of Works may do so.

And be it Enacted, That it shall be lawful for the Surveyors for the time being of the County in which any Works or Improvements shall have been made or effected under this Act, and he is hereby authorized and required from time to time to inspect the state and condition of such Works and Improvements, and the necessary Repairs to be made or done thereto, and to report thereon to the said Trustees, in ord erthat they make good the Repairs specified in such report, and if they the said Trustees shall neglect so to do for the space of calendar Months next after the making of such report, then it shall be lawful for the said Commissioners of Public Works to cause the said Repairs, or such of them as they shall deem necessary, to be done; and the said Trustees shall reimburse the said Commissioners the amount expended by them on such Repairs, by levy and the same under the powers hereinafter contained; and if the said Trustees shall neglect so to reimburse the said Commissioners within calendar Months after they shall have expended any money on the said Repairs, then the said Commissioners shall have the same powers of levying such money as are hereby given to the said Trustees.

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72. Expenses to become payable to Trustees.

And be it Enacted, That when and so often as any such works shall from time to time have been performed and executed, the proportions or contributions towards the Costs and Expenses of the same, as settled by any such award as hereinbefore mentioned, shall become payable to the said Trustees as rates and taxes, and such proportions or contributions shall become vested in and be recoverable by such Trustees, but without prejudice to the powers hereinbefore given to the Commissioner or Commissioners to levy any such proportions or contributions, if he or they shall think fit to exercise such powers.

73. Power of Distress in case of Non-payment.

And be it Enacted, That if any person or persons shall refuse, omit or neglect to pay all or any part of the proportions or contributions which he, she or they is and are hereby made liable to pay as last aforesaid, and discharge for the space of *Two* calendar Months, then and in every such case it shall and may be lawful to and for the said Trustees or any person appointed by them to enter into and upon all or any part of the lands and estates hereby charged as aforesaid, for which any such contribution shall be due and owing, and all messuages and tenements thereupon standing and thereunto belonging, with the appurtenances, and to levy the money due and owing or payable by such person or persons so refusing, omitting or neglecting to pay the same by Distress of the cattle, corn, hay, goods, chattels and effects which shall or may be found thereon, or of a sufficient part thereof, and the cattle, corn, hay, goods, chattels and effects which shall be so distrained to impound and keep on the premises, or to take, lead, drive, carry away and keep for the space of *Five* Days, at the costs and charges of the person or persons liable to pay the said contributions, leaving at such messuage or tenement, lands, grounds or premises, or delivering to the occupiers or one of the occupiers of the same, notice in writing of such Distress being made, and of the cause thereof, and of the place or places where such Distress is to be or is led, taken, driven away and impounded and kept; and in case the sum or sums of money for which any such Distress shall be made, and all costs, charges and expenses attending such Distress, shall not be paid and discharged to the person making such Distress, within *Five* Days next after the making of such Distress, and notice thereof given as aforesaid, then and in every such case the person or persons so making such Distress shall or may, with the Sheriff of the county or his deputy, or the constable of the parish where such Distress shall be made, who is and are hereby requested, upon being thereunto required, to assist therein, cause the cattle, corn, hay, goods, chattels and effects so distrained to be appraised by *Two* or more indifferent persons to be sworn by such Sheriff, Under Sheriff or constable (who is and are hereby empowered and required to administer the proper and necessary oath or oaths); and such *Two* persons are hereby required to appraise the same according to the best of their judgment; and after such appraisement it shall and may be lawful to and for the person or persons making such Distress, to sell or cause to be sold the cattle, corn, hay, goods, chattels and effects so distrained, for the best price that can be reasonably had or gotten for the same, for and towards satisfaction of the monies for which such Distress and sale shall be so made, and the costs, charges and expenses of taking, keeping, appraising and selling the same, rendering the overplus of the monies arising from any such sale, (if any) on demand, to the person or persons entitled thereto.

74.
Lands to remain liable if no Distress found.

And be it Enacted, That when and so often as it shall happen that the Lands and Estates for or in respect of which any such contribution as aforesaid or any part thereof shall be due and unpaid, shall be unoccupied, or that no sufficient Distress can be found thereon for levying the same, then and in every such case such Lands shall be and remain a security for the payment of all such contributions so due and unpaid; and all cattle, corn, hay, goods, chattels and effects which shall at any time thereafter be found on such Lands and Estates shall and may be distrained, impounded, kept, appraised and sold in manner aforesaid, until all the contributions due and owing for or in respect of such Lands, and all costs, charges and expenses incident to every such distress and sale, shall be fully paid, satisfied and discharged.

75.
Distress not unlawful for want of form.

And be it Enacted, That where any Distress shall be made by virtue of this Act, the Distress itself shall not be deemed unlawful, nor the party or parties taking the same be deemed a trespasser or trespassers on account of any want of form in the warrant or warrants of Distress or other proceedings relating thereto, but such warrant or warrants shall be good, valid and effectual to all intents and purposes whatsoever, if the parties issuing the same had power to issue a warrant or warrants for any part of the sum or sums stated therein; nor shall the party or parties distraining be deemed a trespasser or trespassers ab initio on account of any irregularity which shall be afterwards committed by the party or parties distraining, but the person or persons aggrieved by such irregularity shall and may recover satisfaction for the special damage in an action on the case.

76.
No Action to be brought against persons acting in execution of this Act, until after Notice has been given specifying the cause of Action.

And be it Enacted, That no Action, Suit or Information shall be brought, commenced or prosecuted by any person or persons for any thing done or to be done in pursuance of this Act, or in execution of the powers or authorities herein contained, unless Notice in writing of such action, suit or information, specifying the ground or cause thereof, and signed by the attorney of the plaintiff or plaintiffs, shall be given to the Commissioner or Commissioners, person or persons, against whom proceedings are intended to be commenced at least *Twenty-one* Days before such action, suit or information shall be commenced, nor unless such action, suit or information shall be brought or commenced within *Six* calendar Months next after the fact committed, or in case there shall be a continuance of damages, then within *Six* calendar Months next after the doing or committing such damage shall have ceased, and not afterward, and shall be laid or brought in the county where the matter in dispute shall arise, and not elsewhere; and the defendant or defendants may at his or their election plead specially or plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by authority of this Act, and it shall appear to be so done; or if any action, suit or information shall be brought or commenced otherwise than is hereinbefore directed, then and in such case the Jury shall find for the defendant or defendants, and upon such verdict, or if the plaintiff or plaintiffs shall be nonsuited or suffer a discontinuance of his, her or their action or actions, suits or informations after the defendant or defendants shall have appeared thereto, or if any Verdict shall pass against the Plaintiff or Plaintiffs, or if upon demurrer or otherwise judgment shall be given against the Plaintiff or Plaintiffs, the Defendant or Defendants shall have *treble* Costs, and shall have such remedy for the recovery of the same as any other Defendant or Defendants hath or have in other cases at law.

If Verdict for Defendants, or Plaintiffs non-suited or discontinue action, Defendants to have treble Costs.

77.
No Action to be brought after tender of sufficient amends.

And be it Enacted, That no plaintiff or plaintiffs shall recover in any Action to be brought against any Commissioner or Commissioners, person or persons, for any thing done by him or them respectively in execution of the powers vested in them under or by virtue of this Act, as the case may be, if Tender of sufficient Amends shall be made by or on behalf of the said Commissioner or Commissioners, person or persons before such action brought; and in case no Tender shall have been made, it shall be lawful for the defendant or defendants in any action, by leave of the court in which such action shall depend, at any time before issue joined, to pay into court such sum of Money as he or they shall think fit, whereupon such proceedings, order and adjudication shall be had and given in and by such court as in actions where the defendant is allowed to pay money into court.

If no tender made, money may be paid into Court by leave before issue joined.

78.
Penalty on Witnesses refusing to appear or refusing to give evidence.

And be it Enacted, That if any person or persons who shall be summoned as a Witness or Witnesses to attend and give Evidence before any Justice or Justices of the Peace, touching any matter contained in any information or complaint, for any offence committed against this Act, either on behalf of the prosecutor or on behalf of the person or persons accused, shall refuse or neglect to appear at the time and place to be for that purpose appointed, having been paid or tendered a reasonable sum for his, her or their loss of time, costs and charges, without a reasonable excuse for his, her or their refusal or neglect, or appearing shall refuse to be examined on oath (or in case of a Quaker or Quakers on solemn affirmation) and to give Evidence before any Justice or Justices, then and in either of the said cases every such person shall forfeit and pay for every such offence any sum not exceeding *Five* Pounds, to be recovered in like manner as any Penalty imposed by this Act may be recovered.

79. Recovery of Penalties and Forfeitures.

And be it Enacted, That all Penalties, Forfeitures and Fines hereby inflicted or authorized to be imposed, and the manner of levying and Recovery whereof is not herein otherwise directed, shall, upon proof of the offences respectively before any one of His Majesty's Justices of the Peace for the county within which such offence shall have been committed, either by the confession of the party or parties offending, or by the oath of one or more credible witness or witnesses, (which oath such Justice is hereby empowered to administer) be levied by distress and sale of the goods and chattels of the party or parties offending, by warrant under the hand and seal of such Justice, which warrant such Justice is hereby empowered to grant for such purpose, and the overplus (if any) after such penalties, forfeitures and fines and charges of such distress and sale are recovered and deducted, shall be returned upon demand unto the owner or owners of such goods and chattels, and the penalties, forfeitures and fines shall be from time to time paid to the said Commissioner or Commissioners for the purposes aforesaid, and applied by him or them to the purposes for effecting which he or they shall be appointed; and in case sufficient distress shall not be found, and such penalties, forfeitures and fines shall not be forthwith paid upon conviction, then it shall be lawful for such Justice to order the offender or offenders so convicted to be detained and kept in safe custody until return can be conveniently made to such warrant of distress, unless the offender or offenders shall give sufficient security to the satisfaction of such Justice for his, her or their appearance before such Justice on such day or days as shall be appointed for the return of such warrant of distress, such day or days not being more than *Seven* Days from the time of taking any such security, and which security the said Justice is hereby empowered to take by way of recognizance or otherwise; but if upon return of such warrant it shall appear that no sufficient distress can be had whereupon to levy the said penalty or penalties and such costs as aforesaid, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of the said Justice, either by the confession of the offender or offenders or otherwise, that he, she or they hath or have not sufficient goods and chattels whereupon such penalties, forfeitures and fines can be levied, if a warrant of distress were issued, such Justice shall not be required to issue such warrant of distress, and thereupon it shall be lawful for any such Justice of the Peace as aforesaid, and he is hereby authorized and required by warrant or warrants under his hand and seal, to cause such offender or offenders to be committed to the common gaol or house of correction of such county, there to remain without bail or mainprize for any time not exceeding *Three* calendar Months, unless such penalties, forfeitures or fines, and all reasonable charges, shall be sooner paid or satisfied.

80.
Lord Lieutenant may issue Commission of Inquiry.

And be it Enacted, That it shall be lawful for the Lord Lieutenant, or other Chief Governor or Governors of Ireland, by warrant under his or their hand or hands, to require the Commissioners of Public Works in Ireland to inquire within any district the limits whereof shall be specified in such warrant, whether any works ought to be executed within such district for connecting any rivers or lakes with each other, or with the sea, and for rendering the same navigable, or for cleansing, or scouring any stream or watercourse therein, or for draining such district, or any part thereof, or preserving the lands thereof from irruption of the sea, or other inundation, or for effecting any other of the improvements hereinbefore mentioned, and the probable expense thereof respectively, and whether it will be necessary to take any and what lands for the said purposes, or any of them, and the value of such lands respectively, and whether any property is likely to be damaged thereby, and to what extent; and the said Commissioners of Public Works shall inspect the district mentioned in such warrant, and shall make all such inquiries as shall be necessary for enabling them to report as aforesaid, and shall have full power to enter upon any lands or other hereditaments, and to summon witnesses, and take their evidence on oath or affirmation, and to fine any persons refusing to attend or be examined, and shall have all such other powers as may be necessary for enabling them, the said Commissioners of Public Works, to make a Report, and they shall prepare the Draft of a Report, wherein shall be stated whether any such works as aforesaid are required within the said district, and if any be required, what may be the most effectual and judicious mode of carrying the same into execution, and what expense is likely to be incurred thereby, and any other particulars which the said Commissioners of Public Works may deem it necessary to state in such Draft Report for elucidating the same, and cause copies of the said Draft to be made and deposited in such and so many convenient places within the district as they shall think proper, then to remain open to public inspection at all reasonable times for *Three* successive weeks, and shall cause notices of the place or places where the same may be deposited to be posted in the usual places for posting the Grand Jury notices in such district, and shall also cause a like notice to be inserted once in each week for *Three* successive weeks in the *Dublin Gazette*, and shall finally settle and sign their Report in the premises, and transmit the same to the Lord Lieutenant, or other Chief Governor or Governors of Ireland, who shall have power to issue any Commission for effecting the improvements suggested in such Report, or any of them, in the same and like manner in all respects as is hereinbefore provided respecting any Commission to be issued in case the proprietors of *One-half* or more in extent and value of any such lands as hereinbefore mentioned shall consent in writing to contribute towards the necessary expenses of improving the same, or of effecting all or any other of the purposes of this Act; and all the powers, provisions and other clauses in this Act contained in reference to any Commission to be issued as last aforesaid, shall, so far as the same may be applicable, apply and extend to any Commission to be issued on any such Report of the Commissioners of Public Works as hereinbefore mentioned.

81.
Expenses of such Inquiry.

And be it Enacted, That the Expenses of the issuing any such Commission to the Commissioners of Public Works as aforesaid, and of executing the same, and all other Expenses relating thereto, shall be paid by such Commissioners out of the monies or funds vested in them in that capacity; but if all or any of the improvements suggested by their Report shall afterwards be carried into effect, then such Expenses, or so much thereof as the Commissioner or Commissioners to be appointed for carrying such improvements into effect shall deem a fair and just proportion in reference to the same improvements, shall be considered part of the expenses incident to such improvements, and shall be imposed by his or their award upon the owners of the lands and estates benefited thereby as and in the manner hereinbefore provided in relation to such last-mentioned expenses, and be paid accordingly; and the last-named Commissioner and Commissioners shall, out of the first monies received by him or them under his or their award, repay to the Commissioners of Public Works, the expenses of issuing their said Commission and of executing the same, and all other expenses relating thereto, or such proportion thereof as aforesaid.

82.
Persons suggesting Works not approved of by Commissioners of Public Works, to pay the expenses.

And be it Enacted, That if any persons shall present a petition or memorial to the Lord Lieutenant or other Chief Governor or Governors of Ireland, praying that a warrant may issue to the said Commissioners of Public Works, directing an inquiry as to the expediency of any Works suggested in such petition or memorial, and a warrant shall issue accordingly, and the said Commissioners of Public Works shall report that such Works ought not to be done, then the persons by whom such petition or memorial was presented, shall pay the expenses of issuing the warrant to the said Commissioners of Public Works and of executing the same, and all other expenses relating thereto, in the manner hereinafter provided; and for that purpose the said Commissioners of Public Works shall, by writing under the hand of their Secretary, certify to the Lord Lieutenant or other Chief Governor or Governors of Ireland, the amount of the said expenses; and the Lord Lieutenant or other Chief Governor or Governors of Ireland shall, by warrant under the hand of the Chief Secretary of Ireland for the time being, direct the Grand Jury or Grand Juries of the county or counties wherein the persons presenting the said petition or memorial reside, to divide the said expenses among such persons in proportion to the amount

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amount which they respectively contribute towards the county cess, and to present their respective proportions of such expenses on the lands owned or occupied by them respectively; and such Grand Jury or Grand Juries shall divide such expenses and make such presentments accordingly; and the amount which shall be allotted to each person as his proportion of the same expenses shall be collected and levied in the same manner and by the same means as his proportion of the county cess, and the amount so collected and levied shall be paid by the Treasurer of the county or counties wherein the same shall be collected and levied, to the Treasurer of the said Commissioners of Public Works, whose receipt shall be an effectual discharge for the same.

83. Definition of terms in this Act.

And be it Enacted, That in the construction of this Act, the word person shall extend to all bodies politic, corporate and collegiate, and to any number of persons associated together as a company or partnership; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things; and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

84. Act may be altered.

And be it Enacted, That this Act may be amended, altered or repealed by any Act or Acts during the present Session of Parliament.

Waste Lands (Ireland.)

A

B I L L

To promote the Reclamation and Improvement
of Uncultivated Lands in Ireland.

(Prepared and brought in by
Mr. Lynch and Mr. Morgan John O'Connell.)

Ordered, by The House of Commons, *to be Printed,*
24 *April* 1837.

235.

2 *June* 1837.—7 Will. IV.

(Ireland.)

A
BILL

[AS AMENDED BY THE COMMITTEE]

To promote the Reclamation and Improvement of Uncultivated Lands in *Ireland*.

[N. B.—*The Clauses marked* (A.) *to* (E.) *were added by the Committee.*]

Preamble.

WHEREAS there are in *Ireland* numerous large tracts of uncultivated Lands, consisting of Bog Lands, Lands adjoining rivers, streams and lakes, periodically flooded or covered with water, or by the sea, and other Lands rendered unproductive by various natural causes, many of which by the application of proper means are capable of being reclaimed and improved, but from want of the means of co-operation among the Proprietors, and from the inability of Tenants for life and other persons having partial interests to charge the inheritance of their respective estates with their proportion of the requisite outlay, no efficient measures can be adopted for effecting such improvements;

And whereas there are several rivers and lakes in different parts of *Ireland*, which by proper cuts and other works might be connected one with another, and with the sea, and rendered navigable so as to give the benefit of water conveyance to the adjacent country;

1.
Consent of Proprietors of two-thirds of any tract of Land to contribute towards the expenses of improving the same to be binding on the other Proprietors.

BE it therefore Enacted, by The KING's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT in every case where the Proprietors of Two-thirds, or more in extent or value of any Bog Land, or Lands adjoining any river, stream or lake periodically flooded or covered with water, or by the sea, or any other Lands rendered unproductive by natural causes, and which Bog or other Lands shall be considered capable of being brought into cultivation, and also where the Proprietors of Two-thirds or more in extent or value of any Lands situate in places where there are rivers, streams or lakes which may be connected one with another, or with the sea, and rendered navigable, shall consent in writing to contribute towards the necessary expenses for improving or bringing into cultivation the said Bog or other Lands, or connecting any rivers or lakes with one another, or with the sea, and rendering the same navigable; then every other Proprietor of any portion of such Bog or other Lands shall be bound to pay and contribute a due proportion of such expenses, in the same manner as if he had formally consented thereto, but in the manner hereinafter mentioned and subject to the provisions hereinafter contained.

2.
Committees, Trustees, &c., authorized to apply to Court of Chancery for leave to consent.

And be it Enacted, That it shall and may be lawful for all Committees and Curators of lunatics or idiots, guardians of infants, assignees of Bankrupts and Insolvents, and all Trustees or persons acting on behalf of married women and other persons incapable of acting for themselves, who shall be interested in or entitled to any portion of the Lands so proposed to be improved, for and on behalf of such lunatics, idiots, infants, married women, and other persons incapable of acting for themselves, to apply in a summary way by Petition to His Majesty's Court of Chancery in *Ireland*, for leave to consent to contribute towards the expenses of improving or bringing into cultivation such Lands, or effecting such other improvements as aforesaid; and such Court shall have power to inquire into the propriety of giving such consent, and to make such order on such Petition, and as to the costs thereof, as to such Court shall seem meet; and if such Court shall authorize any such consent being given, then it shall be lawful for the party who shall have presented such Petition to give such consent and the same shall be as binding and effectual to all intents and purposes whatsoever as if the party giving the same had been the sole absolute owner in fee-simple of the Land in respect of which such consent shall be given: Provided always, That any party who shall present any such Petition and shall give any such consent as aforesaid in pursuance of any order made upon any such Petition, shall not be guilty of any breach of trust or misfeasance by reason of having presented such Petition or given such consent.

3.
Commissioners to be appointed.

And be it Enacted, That in every case where any Land shall be so proposed to be improved, some fit and proper person or persons shall at the request of such Two-thirds or more of the said Proprietors, be nominated and appointed by the Lord Lieutenant or other Chief Governor or Governors of *Ireland* for the time being, to act as a Commissioner or Commissioners for superintending the reclamation, navigation and other improvements proposed to be made, and for dividing and apportioning the expenses of and incidental to the same, and for applotting such expenses upon the Lands and Estates, counties, counties of cities or counties of towns, or parts of such counties, which shall be benefited by such improvements as hereinafter mentioned; and every person who shall be so nominated shall be considered and be qualified to act as a Commissioner for the purposes aforesaid; and in every case where more than two Commissioners shall be appointed to act, all matters, acts and things authorized or necessary to be done and executed by such Commissioners or any other Commissioner or Commissioners who shall be appointed as hereinafter mentioned, may be done and executed by the majority of them, and the same shall be as good, valid and effectual, and shall have the same force and effect as if such matters, acts and things had been done and executed by all of the Commissioners.

4.
Assistant Barrister may be directed to inquire whether the requisite number of Proprietors consent to improvements.

And be it Enacted, That it shall be lawful for the Lord Lieutenant or other Chief Governor or Governors of *Ireland* for the time being, if he or they shall think fit, but not otherwise, previously to the issuing of any such Commission as aforesaid, to direct the Assistant Barrister of any county in *Ireland*, to inquire and report whether the persons who shall request any such Commission to be issued, or shall have consented to the issuing thereof, do really form one half or more in extent or value of the proprietors of the bog or other lands in respect of or in relation to which such Commission is proposed to be issued, and such Assistant Barrister, is hereby authorized and required at the next ensuing Quarter Sessions to inquire touching the matters so referred to him, and for this purpose if he shall think fit to appoint a solicitor practising in his court to conduct such inquiry; and the said Assistant Barrister is is hereby authorized and required to summon before him and examine all such persons, and to require the production of all such documents as he shall think necessary for the purpose of enabling him to report upon such matters, and he shall accordingly report his opinion to the Lord Lieutenant, or other Chief Governor or Governors *Ireland* of for the time being; and the reasonable costs of such reference to the said Assistant Barrister, and of making his report, shall either be accounted part of the expenses of effecting the proposed improvements, and be raised and paid accordingly, or shall be paid by the person or persons applying for the Commission, as the said Assistant Barrister shall think fit to direct; and if the person or persons so applying for the Commission shall be directed to pay any sum or sums of money on account of such costs, then the same may in default of payment be raised and levied by distress and sale of the goods and chattels of the person or persons who ought to pay the same, by virtue of a warrant under the hand and seal of the said Assistant Barrister, who is hereby authorized to issue such warrant.

5.
Issuing of Commission to be conclusive evidence that requisite consent of proprietors was obtained.

Provided always, and be it Enacted, That the issuing of any such Commission as aforesaid, shall in every case be deemed conclusive evidence that two thirds or more in extent or value of the proprietors of the bog or other lands, in respect of or in relation to which such Commission is issued, did consent in writing to contribute towards the necessary expenses for improving or bringing into cultivation such bog or other lands, or making such other improvements as aforesaid, and that whether any such reference shall or shall not have been made to the Assistant Barrister as hereinbefore provided.

6.
For appointing new Commissioners.

And be it Enacted, That if any such Commissioner shall refuse or become incapable to act as a Commissioner for the purposes aforesaid, or shall die before all the powers, authorities and trusts reposed and vested in him either alone or in conjunction with any other Commissioner or Commissioners shall be fully executed and performed, or that the Lord Lieutenant shall see good cause to relieve such Commissioner from the charge, then and in every such case the Lord Lieutenant or other Chief Governor or Governors of *Ireland* for the time being, shall appoint another person to be a Commissioner for the purposes aforesaid in the place of such Commissioner so refusing or becoming incapable to act or dying or so relieved as aforesaid; and every person so to be appointed a Commissioner as aforesaid, shall, after taking the oath or affirmation hereinafter set forth, have the like powers and authorities for effecting the purposes of this Act, in all respects as if he had been originally nominated and appointed a Commissioner.

7.
Commissioners to take an Oath or Affirmation.

And be it Enacted, That no person shall be capable of acting as a Commissioner (except in administering the oath or affirmation hereinafter mentioned to any other Commissioner) until he shall have taken the Oath, or (being a Quaker or other person objecting to take an oath) made the Affirmation hereinafter mentioned; (that is to say)

Oath.

> "I, *A. B.* do swear [*or*, being a Quaker, or other person objecting to take an oath, do solemnly affirm], That I will truly and impartially, according to the best of my skill and knowledge, execute and perform all the powers and authorities in the execution whereof I shall at any time act as a Commissioner pursuant to an Act made in the seventh year of the reign of His Majesty King WILLIAM the Fourth, intituled, "An Act," *et cetera*, [*here set forth the title of this Act.*]
>
> So help me GOD."

Which oath or affirmation it shall be lawful for any Justice of the Peace to administer, or for any one Commissioner to administer to any other Commissioner.

8.
Persons acting without taking the Oath to forfeit £.50.

And be it Enacted, That in case any person shall act as a Commissioner before he shall have taken the said Oath or made the said affirmation, every such person shall forfeit and pay the sum of Fifty Pounds to any person who shall sue for the same, to be recovered with full costs of suit by action of debt or on the case in any of His Majesty's Courts of Record in *Dublin*, wherein no essoign, protection or wager of law, or more than one imparlance shall be allowed; and the person so proceeded against shall prove that he has taken such oath or made such affirmation, or otherwise shall pay the said sum of Fifty Pounds, without any other evidence on the part of the Plaintiff than that such person has acted as a Commissioner for the purposes aforesaid, or any of them, but the acts of such Commissioners shall not by the omission or neglect to take such oath, or make such affirmation as aforesaid, be invalidated.

9. Notice of Meetings of Commissioners to be given.

And be it Enacted, That in every case the Commissioner or Commissioners for the purposes aforesaid, shall and he and they is and are hereby required to cause Notice of the time and place of his or their first and every other Meeting, to be inserted in the newspapers printed or circulated within the district or county wherein the Land proposed to be improved shall be situate Fifteen days at least before every such meeting.

10. Other Notices to be given.

And be it Enacted, That all other Notices necessary or requisite to be given by any Commissioner or Commissioners for the purposes aforesaid in pursuance of this Act, shall be so given by advertisement in one or more of the newspapers printed or circulated within the district or county wherein the land proposed to be improved shall be situate.

11. Proceedings to be entered in a Book.

And be it Enacted, That all Orders, Proceedings and Determinations of any Commissioner or Commissioners for the purposes aforesaid, shall be entered in a Book or Books to be provided for that purpose, and shall be signed by such Commissioner or Commissioners, and being so signed shall be deemed and taken for originals; and all such Books shall and may be read in evidence in all actions, suits and other proceedings touching any matter or thing done in relation to or in pursuance of the provisions herein contained.

12. Proprietors to pay their own Expenses at meetings.

And be it Enacted, That all Proprietors, and their Attornies and Agents, when they respectively shall attend any Commissioner or Commissioners for the purposes aforesaid, at any sittings to be held as aforesaid, shall pay their own Expenses, and also the expenses of their attornies or agents.

13. Survey to be made.

And be it Enacted, That the Commissioner or Commissioners for the purposes aforesaid shall in every case cause a Survey, admeasurement and plan of the land proposed to be reclaimed or improved, and of the said Rivers and Lakes so to be connected and made navigable, or of such part or parts thereof as he or they may think necessary to be made: Provided nevertheless, That if any plan or plans, survey or surveys already made shall be produced and laid before the Commissioner or Commissioners, of the authenticity and accuracy of which he or they shall be satisfied, it shall be lawful for the said Commissioner or Commissioners to make use of the same without causing a new survey to be made.

14.
Commissioners to have power to enter upon Lands.

And be it Enacted, That every Commissioner for the purposes aforesaid respectively, or any of them, and his servants and assistants, and all persons employed by him respectively, shall have and he is hereby vested with full power and authority at any time or times whatsoever to enter into, view, examine, survey and admeasure all or any of the Lands proposed to be improved, and any lands near or adjoining thereto, for enabling the said Commissioner or Commissioners to effect the purposes aforesaid or any of them respectively.

15.
CLAUSE (A.)
Value of Lands proposed to be improved to be ascertained.

And be it Enacted, That whenever a Commission shall be issued for ascertaining the expediency of improving or bringing into cultivation any Bog or other Lands, the said Commissioner or Commissioners shall cause the then value of such Bog or other Lands to be ascertained, in such manner and by such means as he or they shall think proper, before he or they shall determine on the expediency of the proposed improvements.

16.
CLAUSE (B.)
Commissioners may examine upon Oath.

And be it Enacted, That the said Commissioner or Commissioners may examine upon oath or affirmation (which oath or affirmation such Commissioner, or any One or Two of the Commissianers are and is hereby authorized to administer) all persons who shall appear before him or them to be examined as witnesses, touching any matters or things which may be depending, or touching any questions which may arise in the execution of the powers vested in the said Commissioner or Commissioners by this Act, and may also receive any affidavits or depositions in writing upon oath or affirmation, touching such matters or things as aforesaid, which shall be made before any Justice of the Peace of any county or shire, or any Magistrate of any borough or town corporate in *Great Britain* or *Ireland*, where or near which the person making such affidavit or deposition shall reside, or before any Judge of any of His Majesty's superior Courts at *Westminster*, *Edinburgh* or *Dublin*, and certified and transmitted to the said Commissioner or Commissioners under the hand and seal of such Justice or Magistrate or Judge respectively (and which oath or affirmation every such Justice or Magistrate shall be and is hereby authorized and empowered to administer); provided that in every such affidavit or affirmation there shall be expressed the addition of the party making such affidavit or deposition, and the particular place of his or her abode.

17.
CLAUSE (C.)
Commissioners may issue Summonses, and require attendance of persons to give evidence.

And be it Enacted, That the said Commissioner or Commissioners shall be and is and are hereby authorized by summons, under his or their hand or hands, or under the hands of any One or Two of them, to require the attendance before him or them, by a time to be in such summons for that purpose limited, of any person or persons competent, or whom such Commissioner or Commissioners may have reason to believe to be competent, to give evidence upon any question or matter depending before him or them, touching or concerning the matter aforesaid or any of them; and if any person upon whom any such summons shall be served, by the actual delivery thereof to him or her, or by the leaving the eof at his or her usual place of abode shall, without reasonable cause, to be allowed by such Commissioner or Commissioners, fail to appear before him or them at the time and place in such summons for that purpose mentioned, or so appearing shall refuse to be sworn or to make his or her solemn affirmation, as the case may be, or having been so sworn or having made such affirmation shall not make answer to any such question as may by the said Commissioner or Commissioners be proposed to him or her, touching any matter or thing depending before him or them, under the provisions of this Act, or shall refuse or fail to produce and exhibit to the said Commissioner or Commissioners any such papers and documents relating to any question, matter or thing depending before such Commissioner or Commissioners as shall by him or them be called for or required, every such person shall be guilty of a misdemeanor; provided that nothing herein contained shall extend to authorize or empower the Commissioner or Commissioners to require the production of the title, or any papers or writings relating to the title of any lands, tenements or hereditaments.

Persons not attending or refusing to be sworn, guilty of misdemeanor.

18.
CLAUSE (D.)
Penalty for false swearing, &c.

And be it Enacted, That if any person or persons upon examination on oath or affirmation before the said Commissioner or Commissioners respectively, or if any person or persons making any such affidavit or deposition as before mentioned, shall wilfully and corruptly give false evidence, or shall in such affirmation, affidavit or deposition wilfully or corruptly swear, affirm or allege any matter or thing which shall be false or untrue, every such person so offending, and being thereof duly convicted, shall be and is and are hereby declared to be subject and liable to the pains and penalties of persons convicted of wilful and corrupt perjury by any law in force at the time of such perjury being committed.

19.
Plans of proposed improvements to be published by the Commissioners.

And be it Enacted, That the said Commissioner or Commissioners having ascertained and determined upon the works proper in his or their judgment, to be executed under his or their commission shall, before proceeding with such works, prepare a Schedule, with such maps, plans, drawings and estimates thereto attached as may be necessary, showing and describing the works proposed to be executed, and the probable expense thereof, and the lands, tenements or hereditaments required to be taken for the purposes of this Act, and the mills, weirs, fisheries or other rights or franchises, so far as they may be known to the said Commissioner or Commissioners, liable to be anywise injuriously affected by the proposed works, and shall cause copies of such Schedule, with the maps, plans, drawings and estimates thereto annexed, to be made and deposited in such and so many convenient places in the county or counties wherein the proposed works shall be intended to be made, and of the premises mentioned in such Schedule, as he or they shall think proper, there to remain open to public inspection at all reasonable times for Three successive weeks, and shall cause notices of the place or places where the same may be deposited, to be posted in the usual places for posting grand jury notices in the said district, and shall also cause a like notice to be inserted once in each week for Three successive weeks in the *Dublin* Gazette and in some One or more newspapers circulating in or in the neighbourhood of such county or counties; and the said Commissioner or Commissioners shall in and by such notice require all persons who may desire to lodge objections to the said Schedule, to lodge the same at such place within the county or counties and before such time as shall be specified in the said notice, and the said Commissioner or Commissioners shall also in the said notice state that he or they will proceed to hear any objections which may be lodged, and finally to settle such Schedule at such time and place as shall be specified in the said notice, and he or they shall attend at such time and place accordingly, and shall examine into the matter of any objection which shall be so lodged as aforesaid, and shall hear all such proper evidence as may be offered to him or them in respect thereof, and shall make such rules as he or they may think proper upon the same, and shall make such alterations (if any) in the said Schedule as he or they shall deem fit, and shall finally settle and sign the said Schedule; and as soon as conveniently may be thereafter, lodge the same and the maps, plans, drawings and estimates thereto annexed, with the Clerk of the Peace for the county or one of the counties wherein the proposed improvements are to be made, who is hereby authorized and required to receive and deposit the same among the records of such county, upon receiving a fee of One Guinea for so doing.

20.
Power to drain Lands, and effect other improvements.

And be it Enacted, That it shall be lawful for any Commissioner or Commissioners for the purposes aforesaid, by such contractor or contractors, person or persons, surveyors, agents, workmen and labourers as he or they shall think fit to contract with or employ, to raise or make any embankments, and to make all such cuts, canals and other works as the said Commissioner or Commissioners may deem necessary for the improvement of the said lands, and for connecting one or more river or rivers, lake or lakes, with any other river or rivers, lake or lakes, or with the sea, and for rendering any river or rivers, lake or lakes navigable, and to take down, remove or alter any dams, weirs and other impediments, or so much thereof respectively and in such manner as he or they shall in his or their judgment think necessary and expedient, making due compensation for the same and for the damage to be done thereby to the respective owners thereof; and such Commissioner or Commissioners shall and may also widen, deepen, alter, enlarge, divert, contract, turn, change, discontinue or stop any river, stream, rivulet, brook, watercourse, drain or embankment in such manner as he or they shall think proper or necessary; and also shall and may make new roads, watercourses, sluices, drains, ditches, cuts, canals, dams, channels, culverts, tunnels, banks, bridges, outlets, weirs, engines, fences or other works, in, through, upon and over, as well the Lands proposed to be reclaimed or improved, as also in, through, upon and over any adjacent Lands (the same not being a garden, orchard, planted walk or avenue to any house), without the consent of the owners or proprietors thereof for the time being respectively, making due satisfaction to the owners of such Lands; and the said Commissioner or Commissioners shall have full power to do or cause to be done all such other acts and things as he or they shall deem necessary for effecting all or any of the purposes of this Act, making due compensation to all persons for any damage occasioned to them by the exercise of any such powers.

21.
Penalty on persons destroying or damaging works of drainage.

And be it Enacted, That all and every person and persons who shall unlawfully, wilfully, maliciously or wantonly spoil, damage, injure or destroy any watercourse, sluice, drain, weir, embankment, fence or other work which shall be made, erected, widened or altered as aforesaid, for the reclaiming, draining or improving of any lands, or for effecting any other of the purposes of this Act, or shall unlawfully, wilfully, maliciously or wantonly stop or dam up any of the watercourses or drains, or throw, lay or place any matter or thing therein for that purpose, or which shall impede the free passage of water therein, or meddle or interfere with any floodgate or sluice, by means whereof any injury or damage shall or may be done to any of such lands, every such person being convicted thereof shall forfeit and pay such sum not exceeding Ten Pounds as any Justice of the Peace shall adjudge and order, over and besides the amount of the damage done, which damage shall be ascertained by any such Justice; and the said penalty and amount of the damage shall be applied in rectifying and repairing the said works so injured or damaged.

22.
Commissioners may enter Lands and dig for materials (after notice given to appear and show cause) making compensation.

And be it Enacted, That it shall be lawful for the said Commissioner or Commissioners, or any person or persons authorized by him or them respectively, to search for, dig, gather, take and carry away any materials out of any Lands or premises lying within or contiguous to the Lands proposed to be improved, for making and executing any of the works executed or to be executed under the provisions of this Act, making or tendering such satisfaction for the damage done to the owners or occupiers of the Lands where and from whence the same shall be dug, gathered and carried away, or over which the same shall be carried, as to the said Commissioner or Commissioners shall seem fit and reasonable; but it shall not be lawful for the said Commissioner or Commissioners, or any person by him or them authorized, to dig, gather, get or take or carry away any materials for the purposes aforesaid, out of or from any inclosed land or ground, until notice in writing signed by him or them respectively shall have been given to the owner or owners or occupier or occupiers of the lands or grounds from which the same are intended to be taken and carried away, to appear before any two or more Justices of the Peace sitting in petty sessions acting for the county or place in which the lands or grounds from whence such materials intended to be taken away shall be, to show cause why such materials should not be taken therefrom; and in case such owner or occupier or his agent shall attend pursuant to such notice, but shall not show sufficient cause to the contrary, such Justices shall, if they think proper, authorize the said Commissioner or Commissioners, or any person by him or them authorized or employed, to get, dig and carry away such materials, at such time or times as such Justices shall deem proper; and if such owner or occupier shall neglect or refuse to appear by himself or herself, or his or her agent, the said Justices shall and may, upon proof or oath of the service of such notice, (and which oath they are hereby empowered to administer (make such order therein as they shall think fit, as fully and effectually to all intents and purposes as if such owner or occupier or his or her agents had attended; and in case of any difference between the said Commissioner or Commissioners or the person authorized by him or them as aforesaid, and the owners or occupiers of such Lands, or any of them, from which such materials shall be taken or through which they may be carried, concerning the payments and Compensation for damages as aforesaid, it shall be lawful for any Two or more Justices of the Peace for the county or place in which the lands or grounds from whence such materials shall have been taken shall be situate, on Ten Days' notice thereof being given in writing by either party to the other, to hear, settle and determine the matter and amount of such payments and damages, and of the costs attending the hearing and determining the same.

If Party is dissatisfied with compensation, any two Justices of the county may settle the same.

23.
Commissioners to fill up holes and pits not found useful, and fence off those that may be found useful.

And be it Enacted, That if the said Commissioner or Commissioners, or any person authorized by him or them respectively, shall, by reason of the searching for, digging or getting any materials as aforesaid for making and executing any of the works hereby authorized to be executed, make or cause to be made any pit or hole in any common or other lands or grounds wherein such materials shall be found, the said Commissioner or Commissioners, or persons authorized by him or them, shall forthwith, where the same shall appear necessary to the said Commissioners for the security of the public, cause the same to be sufficiently fenced off during such time as the said pit or hole shall be found useful, and shall, within Six Days after having dug up sufficient

materials

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materials, if such pit or hole is not likely to be further useful, cause the same to be filled up, sloped down or fenced off, and so continued; and if the same is likely to be further useful, the said Commissioner or Commissioners, or persons authorized by him or them, shall sufficiently secure the same by posts and rails or other fences, to prevent accidents to cattle or persons.

24. Where paths are interrupted and cuts made so as to require bridges, Commissioners to make new ways and build bridges.

And be it Enacted, That if by any cut, drain or other work made in exercise of the powers hereby given, any Ways, Roads, Paths or Passages, whether the same be public, private, foot, cattle or carriage ways, shall be disturbed or interrupted, or any lands intersected in such manner as to render the future occupation thereof inconvenient or unprofitable, the said Commissioner or Commissioners shall if the same shall appear necessary, with all convenient speed after such works shall be completed, to cause other convenient ways to be made and opened, and any bridges which may be required to be properly built for the convenient use and passage of any person or persons entitled to use such ways either on foot or with cattle or carriages, or for the convenience of the public or of the parties entitled to the use and occupation of any lands intersected in manner aforesaid, as the case may be, and to defray the expense of making such ways and erecting such bridges out of the monies to be raised by virtue of the award of the said Commissioner or Commissioners.

25. In case new Bridges are built where old ones formerly stood, persons liable to repair the old ones shall repair the new.

Provided always, and be it Enacted, That in case of any Road, Way, Bridge, Drain, Channel or Watercourse which may heretofore have been usually kept in repair or ought to have been kept in repair by the owner or owners of any lands, or by any body corporate or Grand Jury, or by any person liable to the maintenance and repairs thereof by prescription or otherwise, and which shall or may have been diverted, taken down, rebuilt or altered under the powers of this Act, such new, diverted, substituted, altered or rebuilt road, way, bridge, drain, channel or watercourse, shall, after the completion thereof, be thenceforth maintained and kept in repair by such owners, body corporate or Grand Jury or other person respectively, in the same manner as such owners, body corporate, Grand Jury or other persons maintained and repaired as aforesaid such road, way, bridge, drain, channel or watercourse in respect of which such diversion, substitution, rebuilding or alteration as aforesaid may have been made.

26. Power to take Lands.

And be it Enacted, That for the purposes aforesaid, or any of them, it shall be lawful for any Commissioner or Commissioners for the purposes aforesaid, or any of them, and he and they is and are hereby authorized and empowered to take and use, or cause to be taken and used any Lands, mills, tenements or hereditaments, and pull down and remove or cause to be pulled down and removed any mills which it may be deemed necessary and expedient to pull down and remove for the purposes aforesaid, or any of them, at any time after the expiration of Three calendar Months, after notice in writing from the said Commissioner or Commissioners, or his or their Agent duly authorized, of the intention to take or use the same, shall have been left with the tenant or tenants, occupier or occupiers of the same lands, mills, tenements or hereditaments, or shall be affixed upon the same premises.

27.
Bodies Politic and Trustees, and other persons empowered to sell and convey.

And be it Enacted, That it shall be lawful for all bodies politic, corporate or collegiate, ecclesiastical or lay, aggregate or sole, and for all Trustees and feoffees in trust for charitable and other purposes, assignees of bankrupts and insolvents, and all executors and administrators, not only for and on behalf of themselves, their successors, heirs, executors and administrators respectively, but also for and on behalf of their respective cestuique trusts, whether infants, femes covert, idiots, lunatics or persons not born or not ascertained, or any other person or persons whomsoever, and to and for all tenants for life or for years, absolute or determinable on any life or lives, and all persons having any other partial or qualified estate or interest, not only for and on behalf of themselves, their heirs, executors, administrators and issue, but also for and on behalf of the person or persons entitled in remainder, reversion, expectancy or contingency, or for any other future estate or interest where such person or any of such persons, whether entitled to the next or any subsequent estate or interest, or any part thereof, shall not be ascertained, or shall be incapable of contracting for selling the same, and to and for all guardians on behalf of their respective wards, husbands on behalf of their respective wives, committees on behalf of the persons of whose estates they shall be committees, and the heirs, executors, administrators and issue of such wards, wives or persons respectively, and to and for all femes covert entitled in their own right to any such lands, mills, tenements or hereditaments, or to dower or to any other interest therein, on behalf not only of themselves, but also of their respective heirs, executors, administrators and issue; and also where such wards, wives, persons or femes covert respectively shall be tenants for life or in tail, or for years, or have any other partial or qualified estate or interest to and for such guardians, husbands, committees and femes covert, on behalf of the person or persons on behalf of whom such wards, wives, persons or femes covert respectively, if of full age, unmarried, and of sound mind, might have contracted for the same lands, mills, tenements or hereditaments, and to and for all and every other person or persons whomsoever who is, are or shall be seised or possessed of or interested in any lands, mills, tenements or hereditaments, which, or part of which, by the said Commissioner or Commissioners shall be thought necessary for any of the purposes aforesaid to contract for and sell the same, and every or any part thereof, to the said Commissioner or Commissioners; and all contracts and agreements which shall be made by such bodies politic, corporate or collegiate, trustee or trustees, or other person or persons as aforesaid, shall be valid and effectual in the law to all intents and purposes whatsoever; and all bodies politic, corporate or collegiate, and all persons whosoever contracting as aforesaid, are hereby indemnified for or in respect of any such sale which they, he, she or any of them shall respectively make by virtue or in pursuance of this Act.

28.
When parties refuse to accept satisfaction or to treat, or cannot be found, Commissioners to issue a Precept for impannelling a Jury.

And be it Enacted, That if any body or bodies politic, corporate or collegiate, trustee or trustees, or any other person or persons seised, possessed of or interested in or hereinbefore authorized to contract for and sell any lands, mills, tenements or hereditaments, or any share or shares, estate or estates, interest or interests therein, or charge or charges thereon as aforesaid, or any occupier or occupiers thereof sustaining any loss, injury or damage as aforesaid, for and on his, her or their part or parts, or for or on the part of his, her or their cestuique trusts or wards, or of any other person or persons as aforesaid, shall refuse to accept such purchase-money, satisfaction or recompense, or other compensation as shall be offered by the said Commissioner or Commissioners, or if any body or bodies politic, corporate or collegiate, or any person or persons seised or possessed of or interested in any such lands, mills, tenements or hereditaments as aforesaid, shall (upon such notice as hereinbefore is mentioned, having been left with the tenant or tenants, occupier or occupiers of such land, mills, tenements or hereditaments, or affixed upon the same premises) for the space of   calendar Months next after such notice neglect or refuse to send in the particulars of their, his or her claim, or shall neglect or refuse to treat or agree, or shall not agree for the sale of such lands, mills, tenements or hereditaments, or other respective shares, estates and interests therein or charges thereon, or cannot be found or known, or shall not produce and evince a clear title to the premises they are in possession of, or to the interest they shall claim therein, to the satisfaction of the said Commissioner or Commissioners, then and in every or any such case the said Commissioner or Commissioners shall, and he and they is and are hereby empowered thereupon or at any time thereafter to issue a Warrant or Warrants, Precept or Precepts under his or their hand or hands to the Sheriff of the county, or county of a city, or county of a town wherein such lands, mills, tenements, hereditaments or any part thereof shall be situate, commanding such Sheriff to summon, return and impannel a Jury; and such Sheriff is hereby authorized and required accordingly to summon, return and impannel   substantial and indifferent persons qualified to serve on Juries; and the persons so to be summoned, returned and impannelled as aforesaid are hereby required to come and appear before the said Sheriff at such time and place as in such warrant or warrants, precept or precepts shall be directed and appointed, and to attend before the said Sheriff from day to day until discharged; and out of such persons so to be summoned, returned and impannelled, a Jury of men shall be drawn in such manner as Juries for the trial of issues joined in His Majesty's Courts at *Dublin* are directed to be drawn; and in case a sufficient number of Jurymen shall not appear at the time and place appointed as aforesaid, some person to be by the said Sheriff appointed shall return other substantial, honest and indifferent men of the bystanders or others who can be speedily procured to attend that service, being so qualified as aforesaid, to make up the said Jury to the number of and all parties concerned shall and may have their lawful challenges against any of the said Jurymen, but shall not be at liberty to challenge the array; and the said Sheriff is hereby authorized and empowered from time to time, as often as occasion shall require, by precept or precepts to summon and call before him all and every or any person and persons whomsoever who shall be thought proper and necessary to be examined as a Witness or Witnesses on his, her or their oath or oaths, affirmation or affirmations, touching or concerning the premises; and the said Sheriff, if he thinks fits, shall and may, on the application of either party, likewise authorize the said Jury or any or more of them, either before or after they shall be sworn, to view the place or places and premises in question in such manner as he shall direct; and the said Sheriff shall have power to adjourn such meeting from day to day as occasion shall require, and to command such Jury, Witnesses and Parties to attend until all such affairs for which they were summoned shall be concluded; and the said Jury upon their oaths or affirmations (which oaths or affirmations, as well as the oaths or affirmations of such person or persons as shall be called upon to give evidence, the said Sheriff is hereby empowered and required to administer), shall inquire into, assess and ascertain and give a verdict for the sum or sums of money to be paid for the purchase or as a satisfaction or recompense for either the entirety of such lands, mills, tenements or hereditaments, or for any share or shares, estate or estates, interest or interests therein, or charge or charges thereon, as in such warrant or warrants, precept or precepts shall be directed, and the compensation which shall be made in respect of any injury or damage whatsoever to be sustained as aforesaid by any body or bodies politic, corporate or collegiate, person or persons, as in such warrant or warrants, precept or precepts shall be directed; and the said Jury in estimating such satisfaction or recompense shall take into their consideration the increase in value of the residue of any property of which such lands, mills, tenements or hereditaments shall form part in consequence of the improvements proposed to be made, and shall estimate such compensation by reference to what in the opinion

Jury may be challenged.

nion of such Jury the property injured or damaged would have been worth if the improvements proposed to be made had not been in contemplation; and the said Sheriff shall give judgment for such purchase-money, satisfaction, recompense or compensation so to be assessed; which said Verdict or Verdicts and the said Judgment and Judgments thereupon shall be binding and conclusive to all intents and purposes upon all bodies politic, corporate or collegiate, and upon all persons whomsoever; provided that not less than Days' Notice in writing of the time and place at which such Jury are so required to be returned and meet be given to the person or persons interested, or left with the tenant or occupier of the said lands, mills, tenements or hereditaments, or affixed upon the said premises; and the said Verdicts, Judgments and Determinations and all other proceedings of the said Sheriffs and Juries so to be made, given and pronounced as aforesaid, shall be fairly written on parchment and signed by the Clerk of the Peace for the time being of the county wherein such proceedings shall take place: Provided always, That such Jury shall (if required for the purposes for which they are summoned) sit each day Six Hours, and each Juryman shall not receive more than One Guinea for each days' attendance, and such Jury shall not commence sitting later than Eleven of the clock in the forenoon each day of sitting.

Verdict of Jury to be final.

Previous notice being given to Parties interested.

29.
Verdict of value of lands and damages to be ascertained separately.

And be it Enacted, That the said Sheriffs and Juries shall award all Determinations, Judgments and Verdicts which they shall make and give in execution of the powers hereby vested in them concerning the Value of Lands, mills, tenements or hereditaments, or any share or shares, estate or estates, interest or interests therein, or charge or charges thereon, separately and distinctly from any loss or damage to be sustained by any person or persons in consequence of the execution of any of the powers of this Act, and shall distinguish the value set upon the hereditaments, or share or shares, estate or estates, interest or interests therein, charge or charges thereon, and the money assessed or adjudged for such loss or damage as aforesaid separately and apart from each other; and when any money shall be assessed or adjudged for such loss or damage as aforesaid, the Jury shall, if required, award and declare whether the statement delivered by the claimant or claimants of the manner in which any amount of money which shall have been demanded as a compensation for the same, has been computed and made up, gave sufficient particulars to enable the said Commissioner or Commissioners to make a proper offer.

30.
Jury to be under the same regulations as in the Courts in Dublin.

And be it Enacted, That every such Jury and Juryman as aforesaid, shall be under and subject to the same Regulations, Pains and Penalties, as if such Jury or Juryman had been returned for the trial of any issue joined in any of His Majesty's Courts of Record in *Dublin*,

Dublin, and that all and every person and persons who in any examination to be taken by virtue of this Act shall wilfully give false evidence before the said Sheriff, or before any such Jury as aforesaid shall and may be prosecuted for the same, and upon conviction thereof shall be subject to such punishments and disqualifications as any person or persons can or may be subject to for Perjury by the Laws and Statutes of this realm.

31. By whom expenses of Jury shall be paid.

And be it Enacted, That in every case in which the said Commissioner or Commissioners shall have required a statement of the manner in which any amount of money which shall have been demanded as a compensation, has been computed and made up, and the Jury shall be of opinion that the statement delivered by the claimant or claimants did not give sufficient particulars to enable the said Commissioner or Commissioners to make a proper offer, then and in such case all the Costs and Expenses incurred in summoning, returning and impannelling such Jury, taking such inquisition, and the attendance of witnesses, and recording the verdict or judgment thereon, shall be paid and borne by such claimant or claimants; and in every other case where a verdict shall be given by any such Jury for more money than shall have been previously offered by or on behalf of the said Commissioner or Commissioners as a recompense or satisfaction for any such lands, mills, tenements or hereditaments as aforesaid, or for any such estate, right or interest therein, or for any damages that may have been sustained by any person or persons as aforesaid, all the costs and charges incurred as aforesaid shall be borne by the said Commissioner or Commissioners; and in every case, except as aforesaid, where a verdict shall be given by any such Jury for no more or for less money than shall have been previously offered by or on behalf of the said Commissioner or Commissioners, as such recompense or satisfaction as aforesaid, all the costs and charges incurred as aforesaid shall be borne in equal proportions by the party or parties refusing or neglecting to treat or agree as before mentioned, and by the said Commissioner or Commissioners; but in cases where any person or persons, party or parties shall have been prevented by absence from entering into any treaty with the said Commissioner or Commissioners, the costs and charges so incurred shall be borne by the said Commissioner or Commissioners in manner aforesaid; and in all cases where any difference shall arise touching the amount of the said costs and charges, the same shall be taxed by the Prothonotary or other proper officer for the time being of the Court of King's Bench in *Dublin*; and where the costs shall be payable by the party or parties having any such disagreement or dispute with the said Commissioner or Commissioners as aforesaid, the amount thereof having been first paid by the said Commissioner or Commissioners, may be deducted by him or them out of the monies awarded to be paid to such party or parties, as so much advanced for his her or their use; and the payment or tender of the balance of such money shall be deemed and taken to all intents and purposes whatsoever to be a payment or tender of the whole money awarded and adjudged to such party or parties: Provided always, That no Jury which shall be summoned by virtue of this Act, shall assess or award any sum or sums of money to any body or bodies politic, corporate or collegiate, person or persons, by way of compensation for any injury or damage in consequence of the execution of any of the powers of this Act, unless such a statement as hereinbefore is mentioned of the particulars of every such claim, shall have been given or left as aforesaid Days at least before the time of the meeting of such Jury: And provided also, That all the costs and charges hereinbefore directed to be borne by the said Commissioner or Commissioners, shall be accounted part of the expenses incident to the improvements made under this Act, and shall be paid by the proprietors of the lands improved pursuant to the award of the said Commissioner or Commissioners, to be made as hereinafter mentioned.

Notice of injury to be given, or Jury not allowed to award compensation for the same.

32.
Sheriff may fine Jurors or Witnesses for not attending.

And be it Enacted, That the said Sheriff shall have power and authority from time to time to impose any reasonable Fine, not exceeding the sum of on any of the persons summoned and returned on any such Jury or Juries who shall not appear, without some reasonable excuse, or shall refuse to be sworn on the said Jury or Juries, or being so sworn shall not give his or their verdict, or shall otherwise neglect his or their duty; and also on any Person or Persons summoned to give evidence touching any of the matters aforesaid, who shall not attend, having been paid or tendered a reasonable sum for his, her or their expenses, or shall refuse to be sworn or to affirm, or to give his, her or their evidence; and on any other person or persons who shall in nay other manner wilfully neglect his, her or their duty in the premises, contrary to the true intent and meaning of this Act; and from time to time to levy a fine or fines by order of the said Sheriff, by distress and sale of the offender's goods, together with the reasonable charges of every such distress and sale, returning the overplus (if any) to the owner or owners, and that a copy of the order of the said Sheriff, signed by the Clerk of the Peace for the time being of the county, shall be sufficient authority to the person or persons therein to be appointed, and to every other person acting or aiding and assisting therein, to make such distress and sale; and all such fines shall be paid to The King's most Excellent Majesty.

33.
Verdicts and Judgments to be entered among the Records.

And be it Enacted, That all such Verdicts, Judgments, Sentences, Determinations, Orders and other Proceedings of every such Sheriff, as relate to or concern any of the cases before mentioned, and all receipts which the cashier or cashiers of the Bank shall give for any sum or sums of money paid into the Bank in manner hereinafter mentioned, in consequence of any verdict or judgment, shall be entered among the Records of the said Court of King's Bench in *Dublin*, and the said verdicts, judgments, sentences, decrees and orders, and other proceedings, shall be deemed and taken to be records to all intents and purposes whatsoever; and the same, or true copies thereof, shall be deemed and taken to be good and effectual evidence in any court or courts of Law or Equity whatsoever, and all persons shall and may have recourse to the same gratis, and take copies thereof, paying for every copy not exceeding for every seventy-two words, and so proportionably for any greater or less number of words.

34. Application of Purchase-money or Compensation when amounting to £.200.

And be it Enacted, That if any Money shall be agreed or awarded to be paid for any lands, mills, tenements or hereditaments, or part or parts thereof, or share or shares, estate or estates, interest or interests therein taken or purchased by virtue of the powers of this Act, which shall belong to any body politic, corporate or collegiate, or which shall belong to any trustee or trustees or other person or persons who hath or have no power to give a valid receipt for the same, or to sell the same premises otherwise than by virtue of this Act, or for any estate of freehold belonging to a feme covert, such money shall in case the same (after such deduction, if any, for costs, as hereinbefore is mentioned) shall amount to the sum of Two hundred Pounds or upwards, with all convenient speed, be paid into the Bank of *Ireland* in the name and with the privity of the Accountant General of the Court of Chancery in *Ireland*, to be placed to his account there ex-parte the person or persons on whose behalf the same shall be so paid, pursuant to the method prescribed by an Act made in the twenty-third and twenty-fourth years of the reign of King GEORGE the Third, chapter twenty-second, and the General Orders of the said Court, and without fee or reward, and shall, when so paid, be applied under the direction and with the approbation of the said Court, to be signified by an order made upon a Petition to be preferred in a summary way by the body or bodies, person or persons who would have been entitled to the rents and profits of the said lands, mills, tenements or hereditaments, in the redemption or discharge of any debt or debts, or such other incumbrances or part thereof as the said Court shall authorize to be paid, affecting the same lands, mills, tenements or hereditaments, or part or parts thereof, or share or shares, estate or estates, interest or interests therein, or charge or charges thereon, or affecting other lands, tenements or hereditaments standing settled therewith, to the same or the like uses, intents or purposes, or where such money shall not be so applied, then the same shall be laid out and invested, under the like direction and approbation of the said Court, in the purchase of lands, tenements or hereditaments which shall be conveyed and settled to, for and upon such and the like uses, trusts, intents and purposes, and in the manner as the lands, mills, tenements or hereditaments, or any part or parts thereof, shares, estates, interests or charges which shall be so taken or purchased as aforesaid, stood settled or limited, or such of them as at the time of making such conveyance and settlement shall be existing undetermined and capable of taking effect; and in the meantime and until such purchase shall be made, the said money shall, by order of the said Court, upon application thereto, be invested by the said Accountant General in his name, in the purchase of Three Pounds per centum Consolidated or Three Pounds per centum Reduced Bank Annuities; and in the meantime, and until the Bank Annuities shall be ordered by the said Court to be sold for the purposes aforesaid, the Dividends and annual produce of the said Consolidated or Reduced Bank Annuities shall from time to time be paid, by order of the said Court, to the body or bodies, person or persons who would for the time being have been entitled to the rents and profits of the said lands, mills, tenements or hereditaments so hereby directed to be purchased, in case such purchase and settlement were made.

35. Application where the compensation shall be less than £. 200, and exceed £. 20.

Provided always, and be it Enacted, That if any such money which shall be agreed or awarded to be paid for any lands, mills, tenements or hereditaments, or part or parts thereof, or share or shares, estate or estates therein, or charge or charges thereon, taken or purchased as aforesaid, belonging to any Corporation or any trustee or trustees, person or persons, or feme covert, as aforesaid, which (after such deduction, if any, for costs, as hereinbefore is mentioned) shall be less than the sum of Two hundred Pounds, and shall exceed or be equal to the sum of Twenty Pounds, then and in all such cases the same shall, at the option of the body or bodies, person or persons for the time being entitled to the rents and profits of the lands, mills, tenements or hereditaments, or parts, shares, estates, interests or charges so taken or purchased, or of the guardian or guardians, committee or committees of such person or persons in case of infancy or lunacy, to be signified in writing under their respective hands or seals, be paid in the name and with the privity of the said Accountant General of the Court of Chancery, to be placed to his account as aforesaid, in order to be applied in manner hereinbefore directed, or otherwise the same shall be paid at the like option to Trustees, to be nominated by the body or bodies, person or persons making such option, and approved of by the said Commissioner or Commissioners (such nomination and approbation to be signified in writing under the hands and seals or the seals of the nominating and approving persons), in order that such principal money and the dividends arising thereon may be applied in manner hereinbefore directed, so far as the case be applicable, without obtaining or being required to obtain the direction or approbation of the Court of Chancery.

36.
Application where the money is less than £.20.

Provided also, and be it Enacted, That where such money so to be paid as aforesaid shall be less than Twenty Pounds, then and in all such cases the same shall be applied to the use of the body or bodies, person or persons who would for the time being have been entitled to the rents and profits of the lands, mills, tenements or hereditaments, parts, shares, estates, interests or charges taken or purchased as aforesaid, in such manner as the said Commissioner or Commissioners shall think fit; or in case of the infancy or lunacy of such person or persons, then such money shall be paid to his, her or their guardian or guardians, committee or committees, to and for the use and benefit of such person or persons so entitled respectively.

37.
Purchase-money to be paid into the Bank where owners cannot be found or cannot make a good Title.

And be it Enacted, That if any body or bodies politic, corporate or collegiate, person or persons seised or possessed of or interested in any lands, mills, tenements, or hereditaments or share or shares, estate or estates, interest or interests therein, or charge or charges thereon as aforesaid, cannot be found, or shall not be known, or shall not make out and deduce a good Title to the premises to the satisfaction of the said Commissioner or Commissioners, then such sum or sums of Money as shall have been contracted and agreed or shall have been assessed and awarded by any Jury or Juries in manner aforesaid to be paid for the purchase or for the value of the same premises, after retaining thereout such costs and charges (if any) as are hereinbefore authorized to be deducted from the same, shall be paid into the Bank of *Ireland* in the name and with the privity of the said Accountant General of the said Court of Chancery, to be placed to his account to the credit of the party or parties interested in the said lands, mills, tenements or hereditaments, parts, shares, estates, interests or charges (describing such lands, mills, tenements or hereditaments); or if such party or parties shall not be known, then to the credit of the then unknown person or persons interested in the said lands, mills, tenements or hereditaments, parts, shares, estates, interests or charges (describing the same tenements or hereditaments), subject to the order, control and disposition of the said Court of Chancery; which said Court, on the application of any body or bodies, person or persons making claim to such sum or sums of money, or any part thereof, by motion or petition, shall be and is hereby empowered in a summary way, proceeding or otherwise, as to the same Court shall seem meet, to order the same to be laid out and invested in the public funds, and to order distribution thereof, or payment of the dividends thereof, according to the respective estate or estates, title or interest of the body or bodies, person or persons making claim thereunto, and to make such other order in the premises as to the said Court shall seem meet, just and reasonable; and the cashier or cashiers of the Bank of *Ireland* who shall receive such sum or sums of money is and are hereby required to give a receipt or receipts for such sum or sums of money, mentioning and specifying for what the same is or are received, to such person or persons as shall pay any such sum or sums of money into the Bank as aforesaid.

38. Premises purchased to vest in the Commissioners on payment of purchase-money.

And be it Enacted, That upon Payment or tender of the Purchase-money or compensation for any lands, mills, tenements and hereditaments, after deducting thereout such costs and expenses (if any) as aforesaid, to the person or persons entitled to receive the same, or into the Bank of *Ireland* under the provisions hereinbefore contained, the lands, mills, tenements or hereditaments, or parts, shares, estates, interests or charges for the purchase or as the value of which such purchase-money or compensation shall have been so paid or tendered, and the fee-simple and inheritance thereof, or other the absolute interests therein, together with the yearly profits, and all the estate, right, title, interest, use, trust, property, claim and demand in law and in equity of the body or bodies, person or persons, or unknown person or persons to whom or to whose credit such money shall be paid in, to and out of such lands, mills, tenements, hereditaments and premises, shall vest in the said Commissioner or Commissioners, and he and they shall be deemed in law to be in the actual seisin or possession thereof, to all intents and purposes whatsoever, as fully and effectually as if such person or persons and every body or person having any estate in the premises had actually conveyed the same by lease and release, bargain and sale, enrolled feoffment with livery of seisin, or any other conveyance or assurance whatsoever; and such payments shall not only bar all right, title, interest, claim and demand of the body or bodies, person or persons or unknown person or persons of, in or to the same premises, to whom or to whose credit such payment shall have been made, but also shall extend to and be deemed and construed to bar the dower and dowers of the wife and wives of such person or persons, and all estates tail and other estates in possession, reversion, remainder, expectancy or contingency, and the issue and issues of such person or persons, and every other person whomsoever.

39. In case of a doubt upon the title, the Interest of the money paid into the Bank shall be paid to the person who was in possession of the premises when bought.

Provided always, and be it Enacted, That where any Question shall arise touching the Title of any body or bodies politic, corporate or collegiate, person or persons, to any money to be paid into the Bank of *Ireland*, in the name and with the privity of the Accountant General of the said Court of Chancery in pursuance of this Act, for the purchase of or in satisfaction for any lands, mills, tenements or hereditaments, or part or parts thereof, or of any estate, right, title, charge or interest in, to or upon any tenements or hereditaments to be taken or purchased in pursuance of this Act, or of any Bank Annuities to be purchased with any such money, or the dividends or interest of any such Bank Annuities, the body or bodies politic, corporate or collegiate, person or persons who shall have been in the possession of such mills, lands, tenements or hereditaments, parts, shares, estates, interests or charges at the time of such purchase, and all body or bodies, person or persons claiming under such person or persons, or under the possession of such body or bodies, person or persons, shall be deemed and taken to have been lawfully entitled to such tenements or hereditaments, parts, shares, estates, interests or charges, according to such possession, until the contrary shall be shown to the satisfaction of the said Court of Chancery; and the Dividends or Interest of the Bank Annuities to be purchased with such money, shall be paid, applied and disposed of accordingly, unless it shall be made to appear to the said Court that such possession was a wrongful possession, and that some other person or persons was or were lawfully entitled to such tenements or hereditaments, or part or parts thereof, or to some estate or interest therein or charge thereon.

40.
Estate of Mortgagees to vest in Commissioners on payment of principal and interest.

Or if such principal and interest exceed the value of the property then on payment of the value;

And be it further Enacted, That if any person or persons shall have any mortgage or mortgages, or be entitled to any sum or sums of money due on judgment or other security, or otherwise charged on such lands, mills, tenements or hereditaments as shall be taken or purchased by virtue of this Act, or any parts or shares thereof by virtue of such mortgage or mortgages, or security or securities, then and in such case, on payment of the principal and interest due thereon to such mortgagee or mortgagees, person or persons, or into the Bank for the use of the mortgagee or mortgagees, or person or persons entitled thereto, all the estate, right, title, interest, use, trust, property, claim and demand whatsoever of the said mortgagee or mortgagees, or other person or persons, and of all and every person or persons in trust for him, her or them, shall vest in the said Commissioner or Commissioners, and he and they shall be deemed to be in the actual possession of the premises comprised in such mortgage or mortgages, or other security or securities freed and discharged from the said mortgages securities, judgment or other debts, to all intents and purposes whatsoever: Provided always, That if the money and interest due in respect of any mortgage or mortgages, security or securities, charge or charges of any lands, mills, tenements or hereditaments, or part or parts thereof, which shall be purchased or taken by virtue of this Act, shall amount to more than the value of the premises charged therewith, or such of them, or of such part or parts thereof as shall be purchased or taken by virtue of this Act, then upon payment to such mortgagee or mortgagees, person or persons, or into the Bank in manner hereinbefore mentioned, of the sum to be ascertained as the value of the lands, mills, tenements or hereditaments, or part or parts thereof, so to be taken and purchased as aforesaid, all the estate, right, title, interest, property, claim and demand whatsoever of the said mortgagee or mortgagees, person or persons as aforesaid, and of all and every

person

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person or persons in trust for him, her or them, in the said lands, mills, tenements or hereditaments, or part or parts thereof, the value whereof shall have been so ascertained and paid as aforesaid, shall vest in the said Commissioner or Commissioners, and he and they shall be deemed to be in the actual possession of the said premises to all intents and purposes whatsoever, and freed and discharged as aforesaid; and the mortgager or mortgagers, or other person or persons shall be and is and are hereby barred and foreclosed from all right and equity of redemption of and in the same premises, and all the estate, right, title, interest, property, claim and demand of him, her or them, and every person and persons in trust for him, her or them in the same premises, shall vest in the said Commissioner or Commissioners, and he and they shall be deemed to be in the actual possession thereof to all intents and purposes whatsoever.

and Mortgagers be foreclosed.

41.
Possession to be delivered upon Months' notice.

And be it Enacted, That all and every body and bodies, person and persons in the actual possession of any lands, mills, tenements or hereditaments, or any part thereof, to be taken or purchased by virtue of this Act, as owner, leaseholder, tenant at will or lessee for a year, or any shorter time, or otherwise, shall at the expiration of Three calendar Months from and after notice in writing from the said Commissioner or Commissioners shall have been left at the premises, or so soon after as he, she or they shall be required, peaceably and quietly deliver up the Possession of the said premises to the said Commissioner or Commissioners, or the person or persons authorized by him or them to take possession thereof; and in case any such body or bodies, person or persons shall refuse to give up such possession as aforesaid, then it shall be lawful for the said Commissioner or Commissioners to issue their precept or precepts to the Sheriff of the county wherein such premises shall be situate, to deliver possession of the said premises to such person or persons as shall in such precept or precepts be nominated to receive the same; and the said Sheriff is hereby required to deliver such possession accordingly of the said premises, and to levy such costs as shall accrue from the issuing of such precept or precepts on the person or persons so refusing to give up such possession as aforesaid, by distress and sale of his, her or their goods.

42.
Commissioners to account yearly.

And be it Enacted, That once at least in every half year the said Commissioner or Commissioners for the purposes aforesaid shall and he and they is and are hereby required to make out and prepare a true and just Account or statement of all sums of money by him or them received and expended, and such Account or statement when so made, together with the vouchers relating thereto, shall be by him or them laid before the Proprietors of the land so proposed to be improved, at some meeting to be held for the purpose of receiving and settling such Account, (such meeting to be called in the manner hereinbefore directed with respect to the sittings of the said Commissioner or Commissioners), and also before the Grand Juries of the counties, counties of cities and counties of towns liable to be assessed under the provisions hereinafter contained, to be by such Proprietors and Grand Juries examined and balanced, and such balance, if then and there agreed upon between the said Commissioner and Commissioners, and the major part in value or extent of the said Proprietors, and such Grand Juries as aforesaid, shall be stated in the book of accounts to be kept by the said Commissioner or Commissioners; and, in case of any difference between the said Commissioners and the said Proprietors and Grand Juries respectively, the said Proprietors and Grand Juries respectively shall be at liberty to appeal to the Lord Lieutenant, who is hereby authorized to take such steps thereupon as to him shall seem meet.

43. Commissioners shall inquire into the Boundaries of parishes and estates, and if not sufficiently ascertained, they shall fix them, giving previous notice of their intention so to do.

AND whereas disputes or doubts may arise concerning the Boundaries of parishes, properties and estates adjoining or near to the lands improved, embanked, drained or otherwise improved under this Act, or adjoining or near to any other of the works to be executed under the provisions of this Act; BE it therefore Enacted, That the Commissioner or Commissioners appointed by this Act shall and he and they is and are hereby authorized and required by examination of witnesses upon oath or affirmation (which oath or affirmation such Commissioner or any one of such Commissioners is hereby empowered to administer), and by such other legal ways and means as he or they shall think proper, to inquire into the Boundaries of such several parishes, properties and estates; and in case it shall appear to such Commissioner or Commissioners that the Boundaries of the same respectively are not then sufficiently ascertained and distinguished, such Commissioner or Commissioners shall and he and they is and are hereby authorized and required to ascertain, set out, determine and fix the same respectively; and after the said Boundaries shall be so ascertained, set out, determined and fixed, the same shall be and are hereby declared to be the Boundaries of such parishes, properties and estates: Provided always, That such Commissioner or Commissioners (before proceeding to ascertain and set out the Boundaries of such parishes, properties and estates) shall and he and they is and are hereby required to give public notice by writing under his or their hand or hands, to be affixed on the most public doors of the Protestant Church or Chapel (if any), and also on the most public doors of the Roman Catholic Chapel (if any) in such parishes, and also by advertisement in some one newspaper usually circulated within the district of such parishes, properties and estates, and also by writing to be delivered to or left at the last or usual places of the abode of the respective owners or proprietors of any properties or estates in which the lands and grounds to be reclaimed or improved shall be situate, and of such adjoining properties or estates, Ten Days at least before the time of setting out such Boundaries, of their intention to ascertain, set out, determine and fix the same respectively; and such Commissioner or Commissioners shall within One Month after ascertaining and setting out the same Boundaries, cause a description thereof in writing to be delivered to or left at the place of abode of the Clerk of the Peace of the county in which such lands and grounds shall be situate, and also of such respective owners or proprietors or their agents or stewards: Provided always, That if any person or persons interested in the determination of the said Commissioner or Commissioners respecting the said Boundaries shall be dissatisfied with such determination, such person or persons may appeal to the next coming Judge of Assize for the county in which such lands or grounds shall be situate; the party or parties making such appeal giving Eight Days' notice of such appeal and of the matter thereof in writing to the Commissioner or Commissioners; and the Decision of the said Judge therein shall be final and conclusive, and shall not be removed or removable by certiorari, or any other writ or process whatsoever, into any of His Majesty's Courts of Record at *Dublin* or elsewhere.

Commissioners shall cause a description of Boundaries to be delivered to Clerk of the Peace, and owners or proprietors of lands to be inclosed, or their agents or stewards.

Persons dissatisfied may appeal to the Judge of Assize.

Decision of Judge to be final.

44. Duration of Commission.

And be it Enacted, That no Commission to be issued as aforesaid shall have longer continuance than for the term of Five Years, to be computed from the issuing thereof, except that it shall be lawful for the Lord Lieutenant, or other Chief Governor or Governors of *Ireland* for the time being, if he or they shall so think fit, by warrant under his or their hand or hands issued out more than Six calendar months before the expiration of any such Commission, to continue the same for any further time not exceeding Two Years from the expiration of the former Commission.

45. Commissioners to make Award.

And be it Enacted, That as soon as conveniently may be after any embankments, drainage or other improvements shall have been finished under this Act, the Commissioner or Commissioners shall in every case form and draw up, or cause to be formed and drawn up, an Award or instrument in writing which shall express the quantity of acres, roods and perches in statute measure contained in the said lands so improved, embanked and drained, and the situations and descriptions of the same respectively, and the quantity and contents of each owner's property therein, and other the improvements effected under any such Commissioners by virtue of this Act; And such Award shall also apportion the amount of the sums which shall have been expended in and about the improvements which shall have been made, and of all expenses incident thereto, including the interest of all monies advanced upon the lands so improved, and upon the estates of which such lands form part respectively, or which shall be held with such lands under the same limitation contained in the same instrument, or the same set of instruments, and shall also specify the amount of the contribution which the owner or owners of such lands and estates respectively shall pay towards the total amount so expended, and all the expenses incident to the said improvements; And in case of any rivers or lakes being connected the one with the other, or rendered navigable under this Act, the said Award shall specify the amount of the contribution to be borne in respect of the connexionf or the rendering navigable such rivers or lakes, separately and distinctly from the amount of the contribution to be borne in respect of the other improvements made under this Act, and shall determine the amount of contribution (if any) which the Proprietors ought to contribute in respect of the connexion of or the rendering navigable such rivers and lakes, And the sums specified in such Award, as the amount of the contribution by the Proprietors so to be paid towards the total amount so expended as aforesaid, with interest not exceeding Five Pounds per centum per annum, from the date of such Award, shall be and be considered as charges upon the lands and estates for or in respect of which such sums shall by the said Award be directed or required to be paid; And the said Commissioner or Commissioners shall also cause to be inserted in every such Award, proper orders and directions of and concerning the laying out, making, maintaining, cleansing and keeping in repair the watercourses, sluices, drains, ditches, cuts, rivers, lakes, streams, tunnels, culverts, banks, bridges, outlets, weirs, engines, embankments, fences and other works to be made under this Act, and all such other rules, orders, agreements, regulations, directions and determinations, as the said Commissioner or Commissioners shall think necessary and proper; And the said Commissioner or Commissioners shall also cause to be specified in every such Award the proportion or contribution to which the lands so improved and the estates of which such lands form part respectively, or which shall be held with such lands under the same limitation contained in the same instrument or the same set of instruments, and the respective owners thereof shall in future be subject and charged with towards the costs and expenses which may from time to time be incurred in or about the maintaining, cleansing and keeping in repair the said watercourses, sluices, drains, ditches, cuts, rivers, lakes, streams, tunnels, culverts, banks, bridges, outlets, weirs, engines, embankments, fences and other works, specifying in such Award the amount of the proportion or contribution to be borne for maintaining and keeping in repair any works connected with such rivers or lakes as aforesaid, distinctly from the amount of the proportion or contribution to be borne in respect of the maintaining and keeping in repair such other improvements as aforesaid; And every such proportion or contribution as hereinbefore mentioned, shall be stated and fixed as and at so many parts of an unit, and shall be charged and chargeable upon such Lands and Estates respectively as aforesaid, as a rate or tax for keeping the same works in a proper state and condition, and shall and may be levied upon or in respect of the same lands and estates, and the owners thereof respectively, as often as any monies shall from time to time be expended in any such works.

46.
Clause (E.)
Commissioners shall adjudicate upon the proportions of expense to be borne by the counties, &c. benefited under this Act.

And be it Enacted, That the said Commissioners shall in their Award ascertain and set forth the several counties or parts of counties, of counties of cities or counties of towns, through or near to which the said rivers and lakes so to be made navigable or connected are situate, and which are likely to derive benefit from such connexion or improved navigation, or from any work proposed to be executed by the said Commissioners, and shall ascertain and determine the proportions in which such benefit is likely to accrue to such counties or parts of counties respectively; and the said Commissioners or Commissioner shall, by writing under their hands or hand, certify the amount of such contribution to the Secretary of the respective Grand Juries of the said counties, and which Grand Juries are hereby directed and required to present the amount thereof, to be raised in like manner as the county cess, and to be paid to the said Commissioners for the purposes of this Act.

The amount to be raised by the Grand Jury.

47.
Award to be deposited.

And be it Enacted, That every Award of the Commissioner or Commissioners under this Act, shall within *Six* calendar Months next after the execution thereof be deposited with the Clerk of the Peace for the county or one of the counties, counties of cities, or counties of towns, wherein such improvements are made, who is hereby authorized and required to receive and deposit the same amongst the records of such county, upon receiving a fee of One Guinea for so doing.

48.
If any Owner be dissatisfied with Award, Jury to be summoned.

Provided always, and be it Enacted, That if any Owner or Owners, whether absolute or partial, shall be dissatisfied with the Award of the said Commissioner or Commissioners, as to the apportionments which shall have been thereby made, or any of them, or any others of the matters therein contained, it shall be lawful for such party or parties to signify his, her or their dissent in writing to the said Commissioner or Commissioners at any time within calendar Months next after the date of the Award; and the said Commissioner or Commissioners shall forthwith forward such dissent, together with a warrant containing an extract from the Award of such part thereof as relates to the apportionment or apportionments, or other matters objected to, to the Sheriff of the county within which the lands to which such apportionment or apportionments, or other matters relate shall be situate, and which warrant shall be a sufficient authority to such Sheriff to hold an inquisition in pursuance thereof; and such Sheriff shall and he is hereby authorized and required within Twenty Days next after the receipt of such warrant, to summon and impannel a Jury as in cases of inquisition, and such Jury shall consider and confirm or alter and amend the apportionment or apportionments, or other matters objected to, and shall make such order as to the payment of the costs of such proceedings as they shall think fit; and such apportionment or apportionments, or other matters, when so confirmed or altered and amended, and such order as to costs, shall be final and conclusive; and for the purposes of such inquisition the said Sheriff shall and he is hereby authorized and required to summon any witness or witnesses to attend such inquisition, and to administer the usual oaths to such Jury and witness or witnesses respectively; and every such inquisition shall be deemed and taken to be an inquisition in the County Court of such Sheriff; and such Sheriff shall have all the powers and authorities as to such inquisition as he by law possesses for any other inquiry in such County Court; and the finding of such Jury as to such inquisition shall be signed by such Sheriff, and shall be deposited with the said Clerk of the Peace, who is hereby authorized and required to receive and deposit the same, together with the said Award, amongst the records of the county, upon receiving such fee as aforesaid, and shall be enrolled as of record in such County Court, and a copy thereof shall forthwith be certified under the hand and seal of such Sheriff, and transmitted by such Sheriff to the said Commissioner or Commissioners, by whom the warrant shall have been sent.

Powers of Sheriff.

49.
Apportioned Expenses on Lands to have priority over other charges.

And be it Enacted, That every such apportionment as shall be so made as aforesaid by the award of the said Commissioner or Commissioners, or by the Jury as aforesaid, as the case may be, shall be and the same is hereby declared to be a Charge on the respective Lands and Estates in respect of which such apportionment shall have been made in priority over all other interests and incumbrances in or upon such Lands and Estates.

50.
In case of non-payment of money so charged, it may be levied by distress.

And be it Enacted, That if Default shall be made in the payment of the sum or sums charged on and made payable out of any such lands and estates by virtue of such award, for the improvements which shall have been made as aforesaid, it shall and may be lawful for the Commissioner or Commissioners to enter into and upon such lands and estates, and to levy by Distress and sale of any goods or chattels which may be found thereon, the sum or sums so due and in arrear, together with all costs and charges attending such distress and sale, rendering the overplus (if any) to the owner of such goods or chattels; and in case sufficient goods and chattels to satisfy such sum or sums so due, with the costs and charges aforesaid, cannot be found thereon, then and in such case it shall and may be lawful for the said Commissioner or Commissioners or any person or persons for that purpose authorized by him or them to enter upon the said Lands and Estates, and the rents and profits thereof to receive and take, until thereby or otherwise the sum so due, together with all costs and expenses attending or occasioned

If there is not goods or chattels sufficient, the Commissioners may enter upon the Lands.

by such entry and receipt of the rents, profits and issues of such Lands and Estates shall be fully paid and satisfied.

51. If Lands are untenanted and Commissioners shall not choose to enter upon them, goods and chattels thereafter found shall be liable.

And be it Enacted, That in case any Lands or Estates in respect whereof any sum or sums so due shall remain unpaid as aforesaid, shall at any time be untenanted or unoccupied, so that sufficient distress cannot be found whereon to levy the same, and the said Commissioner or Commissioners shall not think proper to enter upon the same as aforesaid, then the said Lands and Estates shall remain liable thereto; and all Goods and Chattels which shall at any time thereafter be found thereon, shall and may be distrained and sold in manner aforesaid, until all arrears and the charges of such distress and detaining, keeping and selling the same shall be fully paid and satisfied.

52. Power to borrow Money.

And be it Enacted, That it shall and may be lawful to and for the owners and proprietors, and also to and for the husbands or guardians, trustees or committees or attornies, assignees, mortgagees in possession, or persons acting as guardians, trustees, committees or attornies for the owners and proprietors of the lands improved under this Act, being under coverture, minors, lunatics, or beyond the seas, or otherwise incapable to act for themselves, and to and for every of them for the time being, and for any of the said owners or proprietors being tenants in tail or for life only, and to and for every of them respectively for the time being, to raise and borrow the Sum or Sums charged upon their lands and estates respectively by the award of the said Commissioner or Commissioners, or by a Jury as aforesaid, for the improvements which shall have been made as aforesaid, and for securing the repayment of all and every such sum and sums of money, with interest, to grant, mortgage, lease or demise, or otherwise subject the lands and estates belonging to them respectively unto such person or persons as shall advance and lend such sum or sums of money respectively for any term or number of years, so as every such grant, mortgage, lease or demise be made with a proviso or condition to cease and be void, or with an express trust to be surrendered when such sum or sums of money thereby to be secured, with the interest thereof, shall be fully paid and satisfied, and so as every such grant, mortgage, lease or demise do also contain a proviso that the person or persons entitled in remainder or reversion to any such lands shall not be liable, upon his, her or their becoming possessed thereof, to the payment of any further or larger arrear of interest than for One Year preceding the time that his, her or their title to such possession shall have commenced.

53. Tenants for life, &c., paying expenses to have charges on the inheritance for the amount.

And be it Enacted, That it shall be lawful for any Tenant or Tenants in tail or for life or for any other partial interest of any of the said lands and estates, by any deed or deeds in writing, or his, her or their last will and testament duly executed according to law, to charge such lands and estates as shall not have been so mortgaged or charged with such sum or sums of money as shall be awarded by the Commissioner or Commissioners or Jury to be paid, and which shall have been accordingly paid by such respective Tenant or Tenants in tail or for life or for any other partial interest for his, her or their share or proportion of the Costs, Charges and Expenses of the improvements which shall have been so made as aforesaid; which sum and sums of money so to be charged as aforesaid shall be payable within One Year next after the decease of every such tenant in tail or for life, or for any other partial interest, with interest for the same not exceeding the rate of Five Pounds per centum per annum, to be computed from his, her or their decease or respective deceases, unto such person or persons as such tenant or tenants in tail or for life or for any other partial interest, shall by such deed or will and testament respectively direct or appoint, and in default of such direction and appointment, the sum and sums of money which shall have been so paid by such respective tenant or tenants in tail or for life, or for any other partial interest as aforesaid, with interest for the same after the rate aforesaid from his, her or their decease or respective deceases, shall be payable within the said period of One Year to his, her or their respective executors or administrators.

54.
All charges to be valid.

And be it Enacted, That every such grant, mortgage, lease or demise, and every such Charge as aforesaid to be made of or upon any of the said lands and estates under or by virtue of this Act, shall be good, valid and effectual in the law, notwithstanding the want of any title in the person or persons making the same, and notwithstanding any will, settlement, trust, use, remainder, limitation or other incumbrance of or concerning the said lands and estates or any part or parts thereof then in being or taking effect, to the contrary.

55.
Power of leasing Lands improved.

And be it Enacted, That it shall be lawful for any tenant or tenants in tail or for life, or for any other partial interest, to lease the lands so improved for such term or terms of years at such yearly rent or rents, and under and subject to such covenants and agreements as shall be fixed on and approved of by the Commissioner or Commissioners acting under this Act at the time of making the said Award; and in case any of the lands so improved shall be in lease, the said Commissioner or Commissioners shall determine the amount of increased rent, which the lessee should pay in consequence of the said improvement.

56.
Power to Commissioners to borrow Money to be afterwards repaid with interest.

And be it Enacted, That it shall be lawful for the said Commissioner or Commissioners for the purposes aforesaid to borrow and take up at interest of any person or persons, party or parties willing to advance and lend the same, such sum or sums of Money as shall from time to time be necessary for defraying the expenses of executing the works and purposes proposed to be made and effected until the same shall be raised by the ways and means hereinbefore directed; which sum or sums of Money so to be borrowed shall be repaid with lawful interest to the person or persons, party or parties advancing the same out of the first monies to be raised under or by virtue of the award of the said Commissioner or Commissioners.

57. Power to Commissioners to apply to the Commissioners appointed under 1 & 2 Will. 4. c. 33, for loan.

And be it Enacted, That it shall and may be lawful for any Commissioner or Commissioners appointed for the purposes aforesaid, and the Trustee or Trustees to be appointed as hereinafter mentioned, to apply to the Commissioners appointed for carrying into execution the purposes of an Act passed in the first and second years of the reign of His present Majesty, intituled, "An Act for Extension and Promotion of Public Works in *Irelnnd*," for the Loan at interest of any sum or sums of money for defraying the expenses of any such improvements so proposed to be or in course of being made; also for keeping up and repairing the works effected under the Act, as hereinafter is mentioned; and in every such case it shall be lawful for the said Commissioner or Commissioners appointed for effecting such improvements to assign, transfer and assure unto the Commissioners appointed for carrying the purposes of the said Act into execution the sums of money to be thereafter by the award of such Commissioner or Commissioners for effecting such improvement charged upon and made payable out of the lands so improved, and the estates of which such lands form part respectively; and the sums which shall be so assigned, transferred or assured, or an equal portion thereof, shall from and after the execution of the award be and become payable to the said Commissioners for carrying the purposes of the said Act into execution for and in satisfaction of the Loan so made by them and the interest thereof.

58. Power to levy Tolls on Vessels using Rivers, &c., rendered navigable under this Act.

And be it Enacted, That if any Rivers, or Lakes shall be rendered navigable under the provisions of this Act, then the said Commissioner or Commissioners shall, by his or their award, fix the Tolls to be paid by any ships, boats, barges or vessels using or navigating such Rivers or Lakes; and it shall be lawful for the Commissioners for the time being, acting under the Act passed in the first and second years of the reign of his present Majesty, intituled, "An Act for the Extension and Promotion of Public Works in Ireland," *to alter and change such Tolls, or any of them, from time to time, as they shall think fit; and the Tolls for the time being payable under this clause, shall and may be from time to time levied by the trustees to be appointed as hereinafter mentioned, and shall be applied by them in the manner hereinafter provided.*

59. Power to let the Tolls.

And be it Enacted, That it shall be lawful for the said Commissioner or Commissioners until he or they shall have made his award, and afterwards for the trustees to be appointed as hereinafter mentioned, if he or they shall think fit, by public bidding from time to time to let, and from time to time to relet, all or any of the Tolls payable under the provisions of this Act, for times not exceeding Ten nor less than Five years, on such conditions, and with such security for payment of the rent reserved in such lease as the said Commissioner or Commissioners, or the said trustees shall think fit, and said Commissioners of Public Works shall from time to time approve: Provided always, That every such lease shall contain a covenant on the part of the lessee or lessees, to keep such work in repair (so far as the ordinary wear and tear of such work may render necessary), and shall also contain a power of writing on non-payment of such rent, or non-performance of such covenant for repairs, within Three calendar months after the same shall become due, or after any breach of any such covenant, and a power to such Commissioner or Commissioners, or the said trustees, at any time to put an end thereto, on giving Three calendar months' notice to the lessees or lessee thereof, of an intention so to do: Provided always, That nothing in this Act contained shall be construed to extend to or affect any tolls already raisable or payable by virtue of the provisions of any Act of Parliament passed before the passing of this Act.

60.
Application of Tolls.

And be it Enacted, That the Tolls payable under the provisions of the Act, or the rent payable under any lease thereof, shall be applied in manner following; (that is to say) first in repairing the cuts, canals or other works in respect of which such Tolls or rents shall be payable, and other expenses attendant thereon, and the surplus of such Tolls or rents shall be invested in Public or Government securities, and sufficient to accumulate so as to form a fund for the future improvement of such works; and such fund shall be applied for such purpose, at such time and in such manner as the said Commissioner or Commissioners or trustees shall from time to time direct, and the said Commissioners of Public Works shall from time to time appoint.

61.
Power of enforcing Payment of Tolls.

And be it Enacted, That it shall be lawful for the said Commissioner or Commissioners, or the said trustees, in cases in which such Tolls shall not be leased or let, and for the lessee or lessees of such Tolls, if leased or let, from time to time to appoint sufficient collectors and officers or agents for the purpose of receiving the Tolls payable under this Act; and in case any person liable to pay such Tolls shall refuse or neglect to pay the same, it shall be lawful for the said Commissioner or Commissioners or trustees, or for the lessees or lessee of the said Tolls, or their officer or agent, or other person to whom such Tolls ought to have been paid, to seize the vessel, goods, articles and things in respect of which such tolls ought to have been paid, wherever the same may be found, and to detain the same until such Tolls, together with the reasonable cost and expenses of such seizure and detention, shall be paid; and if such vessel, goods, articles and things shall not be redeemed within Twenty-one days after the seizure thereof, the same shall be appraised and sold, and, after deducting the costs of such seizure, detention and sale, all such sums as shall be due in respect of such Toll shall be satisfied thereout, and the overplus paid to the owner, in like manner as the law directs in cases of distress for rent in arrear

62.
Bye-laws may be made for payment of Tolls.

And be it Enacted, That it shall and may be lawful for the Commissioner or Commissioners, or the trustees to be appointed as hereinafter mentioned, to make such Bye-laws, rules and regulations for the Payment of the said Rates or Tolls, such Bye-laws, rules and regulations not being contrary to the laws or statutes of the realm, as the Directors of General Inland Navigation in *Ireland* were enabled to make and establish under any Act or Acts for promoting Inland Navigation, or as the said Commissioners of Public Works are now enabled to do under the provisions of the said Act of the first and second years of His present Majesty's reign, vesting the powers and authorities theretofore enjoyed by the said Directors General in the said Commissioners of Public Works; and any person or persons guilty of any breach of, or offending against any such Bye-laws, rules or regulations, shall and may be proceeded against, and shall incur a like penalty or forfeiture, to be levied and enforced in like manner as in the case of any person offending against the bye-laws, rules or regulations at any time made by the said Directors General, or by the said Commissioners in respect of any canal or navigation.

63.
Grants may be made by Commissioners of Public Works, for certain purposes.

And be it Enacted, That it shall be lawful for the said Commissioners of Public Works, with the consent and approval of the Lords Commissioners of the Treasury, to make Grants in aid of the making of any cuts, canals or other works which may be undertaken by virtue of this Act, for connecting one or more river or rivers, lake or lakes, with any other river or rivers, lake or lakes, or with the sea, and in aid of the rendering any river or rivers, lake or lakes navigable, and that on the same terms and subject to the like conditions and regulations as to the amount of such grants and all other particulars as by the said Act passed in the first and second years of His present Majesty's reign is provided in respect of grants in aid of the construction and making of roads and bridges, and the erection of small harbours, piers and quays on the sea coast of *Ireland*, and with the like powers and authorities in relation thereto, save as such conditions and regulations, powers and authorities were altered by the said Act passed in the sixth and seventh years of His present Majesty's reign, for amending the said Act passed in the first and second years of His present Majesty's reign.

64.
After receipt of Award and of report of completion of the works, Chief or Under Secretary of Lord Lieutenant to summon a

And be it Enacted, That so soon as it may be convenient after the receipt of the said Award and the Report of the engineer or surveyor, certifying the completion of the works authorized to be made by the said Commissioner or Commissioners under the said Commission, the Chief or Under Secretary to the Lord Lieutenant or other Chief Governor or

Meeting of Owners of lands benefited, to elect Trustees.

Governors of *Ireland* shall summon a Meeting of all the persons who shall appear by the Award aforesaid to be Owners of any Lands, grounds or premises benefited or improved by such works; and notice of such Meeting shall be given in some one newspaper usually circulated within the county or counties at least Thirty Days before the day appointed for any meeting; and the party seised of the first vested estate of freehold in any lands, grounds or premises shall for the purpose of such Meeting be deemed the owner thereof; and in default of the attendance of such person, then the actual occupier thereof shall be deemed and taken to be such owner, and vote thereat accordingly, and no two persons shall have a right to vote in respect of the same lands, grounds or premises; and the persons assembled at such Meeting shall in the first place elect a Chairman to preside at such Meeting, and shall next proceed to the election of Trustees for preserving, maintaining, repairing and keeping in repair the works completed and executed by the said Commissioners; and such Trustees shall be not fewer than Five or more than Twelve persons, and shall be either actually land-owners or persons entitled so to be deemed under the provisions aforesaid; and all persons who shall have been assessed for the expense of executing such works in the sum of Ten Pounds shall have one vote at such Meeting, and all persons assessed in the sum of Twenty Pounds shall have two votes, and so on in progression of one vote for every complete sum of Twenty Pounds in which such land-owners may have been assessed, but so that no land-owner shall have more than Six votes in the whole, whatever be the sum in which he may have been assessed; and in case of an equality of votes at such Meeting, the Chairman of such Meeting shall, besides any vote or votes to which he may be entitled as an assessed land-owner, also have a casting and decisive vote; and such Chairman shall certify under his hand and seal the names of the persons so elected such Trustees as aforesaid, and deliver such certificate to the Clerk of the Peace of any county within which any of the lands comprised within the limits of the jurisdiction of such Trustees may be, to be by him preserved among the records of the county; and such certificate shall be to all intents and purposes conclusive of the due election of the persons therein named.

65.
Trustees to remain in office for Three Years and to summon Meeting of Land-owners to elect new Trustees every Three Years.

And be it Enacted, That the said Trustees first appointed as aforesaid shall continue and remain in office and act as such for the term of Three Years from the date of their election, and no longer; and at least Ten Days before the expiration of such term of Three Years the Trustees for the time being shall summon by public advertisement, and otherwise as they shall think fit, a Meeting of all the Owners for the time being of all lands, grounds or premises benefited or improved by the works executed under the Commission aforesaid; and the same regulations with respect to the right of persons to vote, and of the manner of voting thereat, shall apply and be observed at such Meeting as at the first Meeting for the election of Trustees; and at such Meeting a like number of persons as were chosen at such first Meeting shall be chosen to act as Trustees for the next ensuing Three Years, in the room of such outgoing Trustees, and with the like powers and authorities; and the election of such Trustees shall be certified in like manner as the election of the first Trustees elected under this Act; and such certificate shall be lodged in like manner, and be alike conclusive of the election therein certified to have been made, and so on for ever, a new election of Trustees being made and certified in like manner and form every Three Years: Provided always, That any outgoing Trustee may be re-elected, and shall in such case continue and remain in office until the next triennial election, any thing herein contained to the contrary notwithstanding: And provided further, That if any Trustee shall before the expiration of the Three Years for which he may have been elected to act as a Trustee, die or resign, or become disqualified to act as such, it shall and may be lawful for the remaining Trustees to elect some other Land-owner qualified as aforesaid to be a Trustee in the place of the Trustee so dying, resigning or becoming disqualified as aforesaid; and such Trustee so elected to fill such vacancy, shall remain and continue in office as such Trustee so long only as the Trustee in whose place or stead he may be elected would have been entitled to have continued and remained in office.

Trustee dying, resigning, &c., a new one to be elected by Trustees out of the Land-owners.

66.

Notice of Meetings of Trustees to be given by public Advertisement or by personal service.

And be it Enacted, That Notice of all Meetings to be held by the Trustees in pursuance of this Act (except where it shall be herein otherwise directed) shall be inserted in some One Newspaper usually circulated within the district of the jurisdiction of such Trustees, at least Thirty Days before the day appointed for any meeting; or such Notice thereof shall be delivered to the said Trustees personally, or left at their usual place or places of abode, or given and published in such other manner as the said Trustees at any previous meeting shall think fit to order and direct; and it shall be lawful for such Trustees to adjourn such Meetings from time to time as may be convenient; and all Orders and Determinations of the Trustees in execution of this Act shall be made at meetings to be held pursuant to the provisions hereof, and not otherwise; and that no order or determination shall be made unless the major part of the Trustees present shall concur therein; and that all acts, orders and proceedings in execution of this Act, and all the powers and authorities vested in the said Trustees generally, shall and may be had, made, done and exercised by the major part of the Trustees who shall be present at the respective meetings to be held by virtue of this Act, the whole number present not being less than Five; and that all acts, orders or proceedings had, made or done by or before such Five Trustees shall have the same force and effect and be binding and conclusive on all persons and to all intents and purposes whatsoever as fully and effectually as if the same were had, made,

Proceedings at Meetings of Trustees.

Revocation of orders.

done or executed by or before all the said Trustees; and that a chairman shall and may in the first place be appointed at every meeting to be held by virtue and for the purposes of this Act, who in case of an equal number of votes (including the chairman's vote) shall have the casting or decisive vote; and that no Order or Determination at any meeting of the said Trustees once made, agreed upon or entered into, shall be revoked or altered at any subsequent meeting, unless notice of the intention to make such Revocation or alteration shall have been given by Five or more Trustees, by writing under their hands, to the clerk to the said Trustees at a previous meeting, and entered in the book of proceedings of such meeting, and expressed in the notice convening such subsequent meeting, nor unless such revocation or alteration shall be agreed to be made by a greater number of Trustees than concurred in the making of any such order and determination.

67.
Trustees to order books of accounts be kept.

And be it Enacted, That the said Trustees shall and they are hereby required to order and direct a Book or Books to be provided and kept by their clerk or clerks for the time being, in which book or books shall be entered true and regular Accounts of all sums of money received, paid, laid out and expended for and on account of any of the purposes of this Act, and of the several articles, matters and things for which any sums of money shall have been disbursed, laid out and paid, which book or books shall at all reasonable times be open to the inspection of the said Trustees; and the Trustees shall from time to time cause such Accounts to be duly made up and balanced on the appointment of trustees to succeed them pursuant to the provisions of this Act; and within Seven Days next after such appointment, deliver such accounts, and make payment of all monies arising by virtue of this Act and then in their hands, to the succeeding trustees, to be by them applied to the purposes of this Act.

68.
Trustees may enter into Contracts.

And be it Enacted, That it shall and may be lawful to and for the said Trustees, by advertisement to be inserted in some newspaper printed or generally circulated within the district of the jurisdiction, to appoint a time and place to receive proposals from, and to enter into, make and execute Contracts for any term not exceeding Three years, with any engineer, engineers or workmen or other person or persons not being a trustee, or in any manner otherwise employed by the said Trustees for maintaining, preserving and repairing any of the works which they may be hereby required or authorized to maintain, preserve and repair, and for providing proper engines, utensils and materials for that purpose, and all other matters, articles and things concerning the same; and all such contracts so to be made shall be entered in a book to be kept for that purpose, and signed by the party or parties making such contract, and by the said Trustees, and shall be good, valid

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and effectual in law without any more formal or further deed or instrument whatsoever.

69. Works to be sustained by the Trustees.

And be it Enacted, That it shall be lawful for the said Trustees for the time being, and they are hereby authorized and required to perform and execute any Works which shall or may be proper or necessary for maintaining, cleansing and keeping in repair any watercourses, sluices, drains, ditches, cuts, canals, rivers, lakes, streams, tunnels, culverts, banks, bridges, outlets, weirs, engines, embankments, fences or other works, which shall have been made for improving any lands as aforesaid, or by means whereof any such lands shall be kept in proper condition, when and as often as any such works shall from time to time be necessary.

70. Power for Surveyors of Counties to inspect Works and direct Repairs; and if Trustees neglect to repair, the Board of Works may do so.

And be it Enacted, That it shall be lawful for the Surveyors for the time being of the County in which any Works or Improvements shall have been made or effected under this Act, and he is hereby authorized and required from time to time, but at least once in each year, to inspect the state and condition of such Works and Improvements, and the necessary Repairs to be made or done thereto, and to report thereon to the said Trustees, in order that they make good the Repairs specified in such report, and if they the said Trustees shall neglect so to do for the space of calendar Months next after the making of such report, then it shall be lawful for the said Commissioners of Public Works, out of any Funds then in their hands for the purposes of Loans, to cause the said Repairs, or such of them as they shall deem necessary, to be done; and the said Trustees shall reimburse the said Commissioners the amount expended by them on such Repairs, by levying the same under the powers hereinafter contained; and if the said Trustees shall neglect so to reimburse the said Commissioners within Six calendar Months after they shall have expended any money on the said Repairs, then the said Commissioners shall have the same powers of levying such money as are hereby given to the said Trustees.

71. Expenses to become payable to Trustees.

And be it Enacted, That when and so often as any such works shall from time to time have been performed and executed, the proportions or contributions towards the Costs and Expenses of the same, as settled by any such award as hereinbefore mentioned, shall become payable to the said Trustees as rates and taxes, and such proportions or contributions shall become vested in and be recoverable by such Trustees, but without prejudice to the powers hereinbefore given to the Commissioner or Commissioners to levy any such proportions or contributions, if he or they shall think fit to exercise such powers.

72. Power of Distress in case of Non-pay-

And be it Enacted, That if any person or persons shall refuse, omit or neglect to pay all or any part of the proportions or contributions which he, she or they is and are hereby made liable to pay as last aforesaid, and discharge for the space of Two calendar Months, then and in every such case it shall and may be lawful to and for the said Trustees or any person appointed by them to enter into and upon all or any part of the lands and estates hereby charged as aforesaid, for which any such contribution shall be due and owing, and all messuages and tenements thereupon standing and thereunto belonging, with the appurtenances, and to levy the money due and owing or payable by such person or persons so refusing, omitting or neglecting to pay the same by Distress of the cattle, corn, hay, goods, chattels and effects which shall or may be found thereon, or of a sufficient part thereof, and the cattle, corn, hay, goods, chattels and effects which shall be so distrained to impound and keep on the premises, or to take, lead, drive, carry away and keep for the space of Five Days, at the costs and charges of the person or persons liable to pay the said contributions, leaving at such messuage or tenement, lands, grounds or premises, or delivering to the occupiers or one of the occupiers of the same, notice in writing of such Distress being made, and of the cause thereof, and of the place or places where such Distress is to be or is led, taken, driven away and impounded and kept; and in case the sum or sums of money for which any such Distress shall be made, and all costs, charges and expenses attending such Distress, shall not be paid and discharged to the person making such Distress, within Five Days next after the making of such Distress, and notice thereof given as aforesaid, then and in every such case the person or persons so making such Distress shall or may, with the Sheriff of the county or his deputy, or the constable of the parish where such Distress shall be made, who is and are hereby requested, upon being thereunto required, to assist therein, cause the cattle, corn, hay, goods, chattels and effects so distrained to be appraised by Two or more indifferent persons to be sworn by such Sheriff, Under Sheriff or constable (who is and are hereby empowered and required to administer the proper and necessary oath or oaths); and such Two persons are hereby required to appraise the same according to the best of their judgment; and after such appraisement it shall and may be lawful to and for the person or persons making such Distress, to sell or cause to be sold the cattle, corn, hay, goods, chattels and effects so distrained, for the best price that can be reasonably had or gotten for the same, for and towards satisfaction of the monies for which such Distress and sale shall be so made, and the costs, charges and expenses of taking, keeping, appraising and selling the same, rendering the overplus of the monies arising from any such sale, (if any) on demand, to the person or persons entitled thereto.

73.
Lands to remain liable if no Distress found.

And be it Enacted, That when and so often as it shall happen that the Lands and Estates for or in respect of which any such contribution as aforesaid or any part thereof shall be due and unpaid, shall be unoccupied,

pied, or that no sufficient Distress can be found thereon for levying the same, then and in every such case such Lands shall be and remain a security for the payment of all such contributions so due and unpaid; and all cattle, corn, hay, goods, chattels and effects which shall at any time thereafter be found on such Lands and Estates shall and may be distrained, impounded, kept, appraised and sold in manner aforesaid, until all the contributions due and owing for or in respect of such Lands, and all costs, charges and expenses incident to every such distress and sale, shall be fully paid, satisfied and discharged.

74.
Distress not unlawful for want of form.

And be it Enacted, That where any Distress shall be made by virtue of this Act, the Distress itself shall not be deemed unlawful, nor the party or parties taking the same be deemed a trespasser or trespassers on account of any want of form in the warrant or warrants of Distress or other proceedings relating thereto, but such warrant or warrants shall be good, valid and effectual to all intents and purposes whatsoever, if the parties issuing the same had power to issue a warrant or warrants for any part of the sum or sums stated therein; nor shall the party or parties distraining be deemed a trespasser or trespassers ab initio on account of any irregularity which shall be afterwards committed by the party or parties distraining, but the person or persons aggrieved by such irregularity shall and may recover satisfaction for the special damage in an action on the case.

75.
No Action to be brought against persons acting in execution of this Act, until after Notice has been given specifying the cause of Action.

And be it Enacted, That no Action, Suit or Information shall be brought, commenced or prosecuted by any person or persons for any thing done or to be done in pursuance of this Act, or in execution of the powers or authorities herein contained, unless Notice in writing of such action, suit or information, specifying the ground or cause thereof, and signed by the attorney of the plaintiff or plaintiffs, shall be given to the Commissioner or Commissioners, person or persons, against whom proceedings are intended to be commenced at least Twenty-one Days before such action, suit or information shall be commenced, nor unless such action, suit or information shall be brought or commenced within Six calendar Months next after the fact committed, or in case there shall be a continuance of damages, then within Six calendar Months next after the doing or committing such damage shall have ceased, and not afterward, and shall be laid or brought in the county where the matter in dispute shall arise, and not elsewhere; and the defendant or defendants may at his or their election plead specially or plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by authority of this Act, and it shall appear to be so done; or if any action, suit or information shall be brought or commenced otherwise than is hereinbefore directed, then and in such case the Jury shall find for the defendant or defendants, and upon such

If Verdict for Defendants, or Plaintiffs non-suited or discontinue action, Defendants to have treble Costs.

verdict, or if the plaintiff or plaintiffs shall be nonsuited or suffer a discontinuance of his, her or their action or actions, suits or informations after the defendant or defendants shall have appeared thereto, or if any Verdict shall pass against the Plaintiff or Plaintiffs, or if upon demurrer or otherwise judgment shall be given against the Plaintiff or Plaintiffs, the Defendant or Defendants shall have treble Costs, and shall have such remedy for the recovery of the same as any other Defendant or Defendants hath or have in other cases at law.

76.
No Action to be brought after tender of sufficient amends.

If no tender made, money may be paid into Court by leave before issue joined.

And be it Enacted, That no plaintiff or plaintiffs shall recover in any Action to be brought against any Commissioner or Commissioners, person or persons, for any thing done by him or them respectively in execution of the powers vested in them under or by virtue of this Act, as the case may be, if Tender of sufficient Amends shall be made by or on behalf of the said Commissioner or Commissioners, person or persons before such action brought; and in case no Tender shall have been made, it shall be lawful for the defendant or defendants in any action, by leave of the court in which such action shall depend, at any time before issue joined, to pay into court such sum of Money as he or they shall think fit, whereupon such proceedings, order and adjudication shall be had and given in and by such court as in actions where the defendant is allowed to pay money into court.

77.
Penalty on Witnesses refusing to appear or refusing to give evidence.

And be it Enacted, That if any person or persons who shall be summoned as a Witness or Witnesses to attend and give Evidence before any Justice or Justices of the Peace, touching any matter contained in any information or complaint, for any offence committed against this Act, either on behalf of the prosecutor or on behalf of the person or persons accused, shall refuse or neglect to appear at the time and place to be for that purpose appointed, having been paid or tendered a reasonable sum for his, her or their loss of time, costs and charges, without a reasonable excuse for his, her or their refusal or neglect, or appearing shall refuse to be examined on oath (or in case of a Quaker or Quakers on solemn affirmation) and to give Evidence before any Justice or Justices, then and in either of the said cases every such person shall forfeit and pay for every such offence any sum not exceeding Five Pounds, to be recovered in like manner as any Penalty imposed by this Act may be recovered.

78.
Recovery of Penalties and Forfeitures.

And be it Enacted, That all Penalties, Forfeitures and Fines hereby inflicted or authorized to be imposed, and the manner of levying and Recovery whereof is not herein otherwise directed, shall, upon proof of the offences respectively before any one of His Majesty's Justices of the Peace for the county within which such offence shall have been committed, either by the confession of the party or parties offending, or by the oath of one or more credible witness or witnesses, (which oath such

Justice is hereby empowered to administer) be levied by distress and sale of the goods and chattels of the party or parties offending, by warrant under the hand and seal of such Justice, which warrant such Justice is hereby empowered to grant for such purpose, and the overplus (if any) after such penalties, forfeitures and fines and charges of such distress and sale are recovered and deducted, shall be returned upon demand unto the owner or owners of such goods and chattels, and the penalties, forfeitures and fines shall be from time to time paid to the said Trustees for the purposes aforesaid, and applied by him or them to the purposes for effecting which he or they shall be appointed; and in case sufficient distress shall not be found, and such penalties, forfeitures and fines shall not be forthwith paid upon conviction, then it shall be lawful for such Justice to order the offender or offenders so convicted to be detained and kept in safe custody until return can be conveniently made to such warrant of distress, unless the offender or offenders shall give sufficient security to the satisfaction of such Justice for his, her or their appearance before such Justice on such day or days as shall be appointed for the return of such warrant of distress, such day or days not being more than Seven Days from the time of taking any such security, and which security the said Justice is hereby empowered to take by way of recognizance or otherwise; but if upon return of such warrant it shall appear that no sufficient distress can be had whereupon to levy the said penalty or penalties and such costs as aforesaid, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of the said Justice, either by the confession of the offender or offenders or otherwise, that he, she or they hath or have not sufficient goods and chattels whereupon such penalties, forfeitures and fines can be levied, if a warrant of distress were issued, such Justice shall not be required to issue such warrant of distress, and thereupon it shall be lawful for any such Justice of the Peace as aforesaid, and he is hereby authorized and required by warrant or warrants under his hand and seal, to cause such offender or offenders to be committed to the common gaol or house of correction of such county, there to remain without bail or mainprize for any time not exceeding Three calendar Months, unless such penalties, forfeitures or fines, and all reasonable charges, shall be sooner paid or satisfied.

79.
Lord Lieutenant may issue Commission of Inquiry.

And be it Enacted, That it shall be lawful for the Lord Lieutenant, or other Chief Governor or Governors of *Ireland*, by warrant under his or their hand or hands, to appoint Commissioners to inquire within any district, the limits whereof shall be specified in such warrant, whether any works ought to be executed within such district for connecting any rivers or lakes with each other, or with the sea, and for rendering the same navigable, or for cleansing, or scouring any stream or watercourse therein, or for draining such district, or any part thereof, or preserving the lands thereof from irruption of the sea, or other inundation, or for effecting any other of the improvements hereinbefore mentioned, and the probable expense thereof respectively, and whether it will be necessary to take any and what lands for the said purposes, or any of them, and the value of such lands respectively, and whether any property is likely to be damaged thereby, and to what extent; and the said Commissioners shall inspect, or cause inspection to be made, the district mentioned in such warrant, and shall make all such inquiries as shall be necessary for enabling them to report as aforesaid, and shall have full power to enter upon any lands or other hereditaments, and to summon witnesses, and take their evidence on oath or affirmation, and to fine any persons refusing to attend or be examined, and shall have all such other powers as may be necessary for enabling them, the said Commissioners of Public Works, to make a Report, and they shall prepare the Draft of a Report, wherein shall be stated whether any such works as aforesaid are required within the said district, and if any be required, what may be the most effectual and judicious mode of carrying the same into execution, and what expense is likely to be incurred thereby, and any other particulars which the said Commissioners may deem it necessary to state in such Draft Report for elucidating the same, and cause copies of the said Draft to be made and deposited in such and so many convenient places within the district as they shall think proper, then to remain open to public inspection at all reasonable times for Three successive weeks, and shall cause notices of the place or places where the same may be deposited to be posted in the usual places for posting the Grand Jury notices in such district, and shall also cause a like notice to be inserted once in each week for Three successive weeks in the *Dublin* Gazette, and shall finally settle and sign their Report in the premises, and transmit the same to the Lord Lieutenant, or other Chief Governor or Governors of *Ireland*, who shall have power to issue any Commission for effecting the improvements suggested in such Report, or any of them, in the same and like manner in all respects as is hereinbefore provided respecting any Commission to be issued in case the proprietors of One-half or more in extent or value of any such lands as hereinbefore mentioned shall consent in writing to contribute towards the necessary expenses of improving the same, or of effecting all or any other of the purposes of this Act; and all the powers, provisions and other clauses in this Act contained in reference to any Commission to be issued as last aforesaid, shall, so far as the same may be applicable, apply and extend to any Commission to be issued on any such Report of such lastly mentioned Commissioners as hereinbefore mentioned.

80.
Expenses of such Inquiry.

And be it Enacted, That the Expenses of the issuing any such Commission to such lastly-mentioned Commissioners as aforesaid, and of executing the same, and all other Expenses relating thereto, shall be paid by the Commissioners of Public Works out of the monies or funds vested in them for the purposes of loans, with the consent of the Lords of the Treasury; but if all or any of the improvements suggested by their Report shall afterwards be carried into effect, then such Expenses, or so much thereof as the Commissioner or Commissioners to be appointed for carrying such improvements into effect shall deem a fair and just proportion in reference to the same improvements, shall be considered part of the expenses incident to such improvements, and shall be imposed by his or their award upon the owners of the lands and estates benefited thereby as and in the manner hereinbefore provided in relation to such last-mentioned expenses, and be paid accordingly; and the last-named Commissioner and Commissioners shall, out of the first monies received by him or them under his or their award, repay to the Commissioners of Public Works, the expenses of issuing their said Commission and of executing the same, and all other expenses relating thereto, or such proportion thereof as aforesaid.

81.
Persons suggesting Works not approved of by Commissioners of Public Works, to pay the expenses.

And be it Enacted, That if any persons shall present a petition or memorial to the Lord Lieutenant or other Chief Governor or Governors of *Ireland*, praying that a warrant may issue to Commissioners, directing an inquiry as to the expediency of any Works suggested in such petition or memorial, and a warrant shall issue accordingly, and such Commissioners shall report that such Works ought not to be done, then the persons by whom such petition or memorial was presented, shall pay the expenses of issuing the warrant to such Commissioners and of executing the same, and all other expenses relating thereto, in the manner hereinafter provided; and for that purpose such Commissioners shall, by writing under their hands, certify to the Lord Lieutenant or other Chief Governor or Governors of *Ireland*, the amount of the said expenses; and the Lord Lieutenant or other Chief Governor or Governors of *Ireland* shall, by warrant under the hand of the Chief Secretary of *Ireland* for the time being, direct the Grand Jury or Grand Juries of the county or counties wherein the persons presenting the said petition or memorial reside, to divide the said expenses among such persons in proportion to the amount which they respectively contribute towards the county cess, and to present their respective proportions of such expenses on the lands owned or occupied by them respectively; and such Grand Jury or Grand Juries shall divide such expenses and make such presentments accordingly; and the amount which shall be allotted to each person as his proportion of the same expenses shall be collected and levied in the same manner and by the same means as if the same was his proportion of the county cess; and the amount so collected and levied shall be paid by the Treasurer of the county or counties wherein the same shall be collected and levied, to the Secretary of the said Commissioners of Public Works, or such other person as shall be named for that purpose by the said Secretary of the Lord Lieutenant, whose receipt shall be an effectual discharge for the same.

82. Definition of terms in this Act.

And be it Enacted, That in the construction of this Act, the word person shall extend to all bodies politic, corporate and collegiate, and to any number of persons associated together as a company or partnership; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things; and every word importing the masculine gender only shall extend and be applied to a female as well as a male; and the word proprietor shall extend, not only to tenants in fee simple, but tenants in tail, tenants for life or tenants for years determinable on a life, but not to any lessee.

83. Act may be altered

And be it Enacted, That this Act may be amended, altered or repealed by any Act or Acts during the present Session of Parliament.

Waste Lands (Ireland).

A

B I L L

[AS AMENDED BY THE COMMITTEE]

To promote the Reclamation and Improvement of Uncultivated Lands in *Ireland*.

(Prepared and brought in by
Mr. Lynch and Mr. Morgan John O'Connell.)

Ordered, by The House of Commons, *to be Printed,*
2 *June* 1837.

359.

23 *June* 1837.—1 Vict.

(Ireland.)

A

BILL

[AS AMENDED ON RE-COMMITMENT]

To promote the Reclamation and Improvement of Uncultivated Lands in *Ireland*.

[N. B.—*The Clauses marked* (A.) *to* (E.) *were added by the Committee; and the Clauses marked* (F.) *and* (G.) *were added on Re-commitment.*]

Preamble.

WHEREAS there are in *Ireland* numerous large tracts of uncultivated Lands, consisting of Bog Lands, Lands adjoining rivers, streams and lakes, periodically flooded or covered with water, or by the sea, and other Lands rendered unproductive by various natural causes, many of which by the application of proper means are capable of being reclaimed and improved, but from want of the means of co-operation among the Proprietors, and from the inability of Tenants for life and other persons having partial interests to charge the inheritance of their respective estates with their proportion of the requisite outlay, no efficient measures can be adopted for effecting such improvements;

And whereas there are several rivers and lakes in different parts of *Ireland*, which by proper cuts and other works might be connected one with another, and with the sea, and rendered navigable so as to give the benefit of water conveyance to the adjacent country;

1. Consent of Proprietors of two-thirds of any tract of Land to contribute towards the expenses of improving the same to be binding on the other Proprietors.

Be it therefore Enacted, by The QUEEN's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT in every case where the Proprietors of Two-thirds, or more in extent or value of any Bog Land, or Lands adjoining any river, stream or lake periodically flooded or covered with water, or by the sea, or any other Lands rendered unproductive by natural causes, and which Bog or other Lands shall be considered capable of being brought into cultivation, and also where the Proprietors of Two-thirds or more in extent or value of any Lands situate in places where there are rivers or lakes which may be connected one with another, or with the sea, and rendered navigable, shall consent in writing to contribute towards the necessary expenses for improving or bringing into cultivation the said Bog or other Lands, or connecting any rivers or lakes with one another, or with the sea, and rendering the same navigable; then every other Proprietor of any portion of such Bog or other Lands shall be bound to pay and contribute a due proportion of such expenses, in the same manner as if he had formally consented thereto, but in the manner hereinafter mentioned and subject to the provisions hereinafter contained.

2.
Committees, Trustees, &c., authorized to apply to Court of Chancery for leave to consent.

And be it Enacted, That it shall and may be lawful for all Committees and Curators of lunatics or idiots, guardians of infants, assignees of Bankrupts and Insolvents, and all Trustees or persons acting on behalf of married women and other persons incapable of acting for themselves, who shall be interested in or entitled to any portion of the Lands so proposed to be improved, for and on behalf of such lunatics, idiots, infants, married women, and other persons incapable of acting for themselves, to apply in a summary way by Petition to Her Majesty's Court of Chancery in *Ireland*, for leave to consent to contribute towards the expenses of improving or bringing into cultivation such Lands, or effecting such other improvements as aforesaid; and the said Court shall have power to inquire into the propriety of giving such consent, and to make such order on the Petition, and as to the costs thereof, as to the Court shall seem meet; and if the Court shall authorize any such consent being given, then it shall be lawful for the party who shall have presented the Petition to give such consent and the same shall be as binding and effectual to all intents and purposes whatsoever as if the party giving the same had been the sole absolute owner in fee-simple of the Land in respect of which such consent shall be given: Provided always, That any party who shall present any such Petition and shall give any such consent as aforesaid in pursuance of any order made upon any such Petition, shall not be guilty of any breach of trust or misfeasance by reason of having presented such Petition or given such consent.

3.
Commissioners to be appointed.

And be it Enacted, That in every case where any Land shall be so proposed to be improved, some fit and proper person or persons shall at the request of such Two-thirds or more of the said Proprietors, be nominated and appointed by the Lord Lieutenant or other Chief Governor or Governors of *Ireland* for the time being, to act as a Commissioner or Commissioners for superintending the reclamation, navigation and other improvements proposed to be made, and for dividing and apportioning the expenses of and incidental to the same, and for applotting such expenses upon the Lands and Estates, counties, counties of cities or counties of towns, or parts of such counties, which shall be benefited by such improvements as hereinafter mentioned; and every person who shall be so nominated shall be considered and be qualified to act as a Commissioner for the purposes aforesaid; and in every case where more than two Commissioners shall be appointed to act, all matters, acts and things authorized or necessary to be done and executed by such Commissioners or any other Commissioner or Commissioners who shall be appointed as hereinafter mentioned, may be done and executed by the majority of them, and the same shall be as good, valid and effectual, and shall have the same force and effect as if such matters, acts and things had been done and executed by all of the Commissioners: Provided always, That every application to be made to the Lord Lieutenant for issuing a Commission under this Act, shall be accompanied by a Map or Plan, in which shall be set forth, so far as may be practicable, the Lands or Navigation proposed to be improved, and the boundaries and extent of such Lands or Navigation.

4.
Assistant Barrister ma be directed to inquire whether the requisite number of Proprietors consent to improvements.

And be it Enacted, That it shall be lawful for the Lord Lieutenant or other Chief Governor or Governors of *Ireland* for the time being, if he or they shall think fit, but not otherwise, previously to the issuing of any such Commission as aforesaid, to direct the Assistant Barrister of any county in *Ireland*, to inquire and report whether the persons who shall request any such Commission to be issued, or shall have consented to the issuing thereof, do really form two-thirds or more in extent or value of the proprietors of the bog or other lands in respect of or in relation to which such Commission is proposed to be issued, and such Assistant Barrister, is hereby authorized and required at the next ensuing Quarter Sessions to inquire touching the matters so referred to him, and for this purpose if he shall think fit to appoint a solicitor practising in his court to conduct such inquiry; and the said Assistant Barrister is hereby authorized and required to summon before him and examine all such persons, and to require the production of all such documents as he shall think necessary for the purpose of enabling him to report upon such matters, and he shall accordingly report his opinion to the Lord Lieutenant, or other Chief Governor or Governors of *Ireland* for the time being; and the reasonable costs of such reference to the said Assistant Barrister, and of making his report, shall either be accounted part of the expenses of effecting the proposed improvements, and be raised and paid accordingly, or shall be paid by the person or persons applying for the Commission, as the said Assistant Barrister shall think fit to direct; and if the person or persons so applying for the Commission shall be directed to pay any sum or sums of money on account of such costs, then the same may in default of payment be raised and levied by distress and sale of the goods and chattels of the person or persons who ought to pay the same, by virtue of a warrant under the hand and seal of the said Assistant Barrister, who is hereby authorized to issue such warrant.

5. Issuing of Commission to be conclusive evidence that requisite consent of proprietors was obtained.

Provided always, and be it Enacted, That the issuing of any such Commission as aforesaid, shall in every case be deemed conclusive evidence that two thirds or more in extent or value of the proprietors of the bog or other lands, in respect of or in relation to which such Commission is issued, did consent in writing to contribute towards the necessary expenses for improving or bringing into cultivation such bog or other lands, or making such other improvements as aforesaid, and that whether any such reference shall or shall not have been made to the Assistant Barrister as hereinbefore provided; and also that the application for a Commission was accompanied by such Map as aforesaid.

6. CLAUSE (F.) The Costs of Commission.

And be it Enacted, That the Commission to issue under the authority of this Act shall be had and obtained without any other charge than One Guinea for the writing and ingrossment thereof.

7. For appointing new Commissioners.

And be it Enacted, That if and when and as often as any such Commissioner shall refuse or become incapable to act as a Commissioner for the purposes aforesaid, or shall die before all the powers, authorities and trusts reposed and vested in him either alone or in conjunction with any other Commissioner or Commissioners shall be fully executed and performed, or if the Lord Lieutenant or other Chief Governor or Governors of *Ireland* for the time being, shall see good cause to relieve such Commissioner from the charge, then and in every such case the Lord Lieutenant or other Chief Governor or Governors of *Ireland* for the time being, shall appoint another person to be a Commissioner for the purposes aforesaid in the place of such Commissioner so refusing or becoming incapable to act or dying or so relieved as aforesaid; and every person so to be appointed a Commissioner as aforesaid, shall, after taking the oath or affirmation hereinafter set forth, have the like powers and authorities for effecting the purposes of this Act, in all respects as if he had been originally nominated and appointed a Commissioner.

8. Commissioners to take an Oath or Affirmation.

And be it Enacted, That no person shall be capable of acting as a Commissioner (except in administering the oath or affirmation hereinafter mentioned to any other Commissioner) until he shall have taken the Oath, or (being a Quaker or other person objecting to take an oath) made the Affirmation hereinafter mentioned; (that is to say)

Oath.

"I, *A. B.* do swear [*or*, being a Quaker, or other person objecting to take an oath, do solemnly affirm], That I will truly and impartially, according to the best of my skill and knowledge, execute and perform all the powers and authorities in the execution whereof I shall at any time act as a Commissioner pursuant to an Act made in the first year of the reign of Her Majesty Queen VICTORIA, intituled, "An Act," *et cætera*, [*here set forth the title of this Act.*]

So help me GOD."

Which

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Which oath or affirmation it shall be lawful for any Justice of the Peace to administer, or for any one Commissioner to administer to any other Commissioner.

9. Persons acting without taking the Oath to forfeit £.50.

And be it Enacted, That in case any person shall act as a Commissioner before he shall have taken the said Oath or made the said affirmation, every such person shall forfeit and pay the sum of Fifty Pounds to any person who shall sue for the same, to be recovered with full costs of suit by action of debt or on the case in any of Her Majesty's Courts of Record in *Dublin*, wherein no essoign, protection or wager of law, or more than one imparlance shall be allowed; and the person so proceeded against shall prove that he has taken such oath or made such affirmation, or otherwise shall pay the said sum of Fifty Pounds, without any other evidence on the part of the Plaintiff than that such person has acted as a Commissioner for the purposes aforesaid, or any of them, but the acts of such Commissioners shall not by the omission or neglect to take such oath, or make such affirmation as aforesaid, be invalidated.

10. Notice of Meetings of Commissioners to be given.

And be it Enacted, That in every case the Commissioner or Commissioners for the purposes aforesaid, shall and he and they is and are hereby required to cause Notice of the time and place of his or their first and every other Meeting, to be inserted in the newspapers printed or circulated within the district or county wherein the Land proposed to be improved shall be situate Fifteen days at least before every such meeting.

11. Other Notices to be given.

And be it Enacted, That all other Notices necessary or requisite to be given by any Commissioner or Commissioners for the purposes aforesaid in pursuance of this Act, shall be so given by advertisement in one or more of the newspapers printed or circulated within the district or county wherein the land proposed to be improved shall be situate.

12. Proceedings to be entered in a Book.

And be it Enacted, That all Orders, Proceedings and Determinations of any Commissioner or Commissioners for the purposes aforesaid, shall be entered in a Book or Books to be provided for that purpose, and shall be signed by such Commissioner or Commissioners, and being so signed shall be deemed and taken for originals; and all such Books shall and may be read in evidence in all actions, suits and other proceedings touching any matter or thing done in relation to or in pursuance of the provisions herein contained.

13. Proprietors to pay their own Expenses at meetings.

And be it Enacted, That all Proprietors, and their Attornies and Agents, when they respectively shall attend any Commissioner or Commissioners for the purposes aforesaid, at any sittings to be held as aforesaid, shall pay their own Expenses, and also the expenses of their attornies or agents.

14.
Survey to be made.

And be it Enacted, That the Commissioner or Commissioners for the purposes aforesaid shall in every case cause a Survey, admeasurement and plan of the land proposed to be reclaimed or improved, and of the Rivers and Lakes proposed to be connected and made navigable, or of such part or parts thereof as he or they may think necessary to be made: Provided nevertheless, That if any plan or plans, survey or surveys already made shall be produced and laid before the Commissioner or Commissioners, of the authenticity and accuracy of which he or they shall be satisfied, it shall be lawful for the said Commissioner or Commissioners to make use of the same without causing a new survey to be made.

15.
Commissioners to have power to enter upon Lands.

And be it Enacted, That every Commissioner for the purposes aforesaid respectively, or any of them, and his servants and assistants, and all persons employed by him respectively, shall have and he is hereby vested with full power and authority at any time or times whatsoever to enter into, view, examine, survey and admeasure all or any of the Lands proposed to be improved, and any lands near or adjoining thereto, for enabling the said Commissioner or Commissioners to effect the purposes aforesaid or any of them respectively.

16.
Clause (A.)
Value of Lands proposed to be improved to be ascertained.

And be it Enacted, That whenever a Commission shall be issued for ascertaining the expediency of improving or bringing into cultivation any Bog or other Lands, the said Commissioner or Commissioners shall cause the then value of such Bog or other Lands to be ascertained, in such manner and by such means as he or they shall think proper, before he or they shall determine on the expediency of the proposed improvements.

17.
Clause (B.)
Commissioners may examine upon Oath.

And be it Enacted, That the said Commissioner or Commissioners may examine upon oath or affirmation (which oath or affirmation such Commissioner, or any One or Two of the Commissioners is and are hereby authorized to administer) all persons who shall appear before him or them to be examined as witnesses, touching any matters or things which may be depending, or touching any questions which may arise in the execution of the powers vested in the said Commissioner or Commissioners by this Act, and may also receive any affidavits or depositions in writing upon oath or affirmation, touching such matters or things as aforesaid, which shall be made before any Justice of the Peace of any county or shire, or any Magistrate of any borough or town corporate in *Great Britain* or *Ireland*, where or near which the person making such affidavit or deposition shall reside, or before any Judge of any of Her Majesty's Superior Courts at *Westminster*, *Edinburgh* or *Dublin*, and certified and transmitted to the said Commissioner or Commissioners under the hand and seal of such Justice or Magistrate or Judge respectively (and which oath or affirmation every such Justice or Magistrate shall be and is hereby authorized and empowered to administer); provided that in every such affidavit or affirmation there shall be expressed the addition of the party making such affidavit or deposition, and the particular place of his or her abode.

18.
Clause (C.)
Commissioners may issue Summonses, and require attendance of persons to give evidence.

And be it Enacted, That the said Commissioner or Commissioners shall be and is and are hereby authorized by summons, under his or their hand or hands, or under the hands of any One or Two of them, to require the attendance before him or them, by a time to be in such summons for that purpose limited, of any person or persons competent, or whom such Commissioner or Commissioners may have reason to believe to be competent, to give evidence upon any question or matter depending before him or them, touching or concerning the matter aforesaid or any of them; and if any person upon whom any such summons shall be served, by the actual delivery thereof to him or her, or by the leaving thereof at his or her usual place of abode shall, without reasonable cause, to be allowed by such Commissioner or Commissioners, fail to appear before him or them at the time and place in such summons for that purpose mentioned, or so appearing shall refuse to be sworn or to make his or her solemn affirmation, as the case may be, or having been so sworn or having made such affirmation shall not make answer to any such question as may by the said Commissioner or Commissioners be proposed to him or her, touching any matter or thing depending before him or them, under the provisions of this Act, or shall refuse or fail to produce and exhibit to the said Commissioner or Commissioners any such papers and documents relating to any question, matter or thing depending before such Commissioner or Commissioners as shall by him or them be called for or required, every such person shall be guilty of a misdemeanor; provided that nothing herein contained shall extend to authorize or empower the Commissioner or Commissioners to require the production of the title, or any papers or writings relating to the title of any lands, tenements or hereditaments.

Persons not attending or refusing to be sworn, guilty of misdemeanor.

19.
Clause (D.)
Penalty for false swearing, &c.

And be it Enacted, That if any person or persons upon examination on oath or affirmation before the said Commissioner or Commissioners respectively, or if any person or persons making any such affidavit or deposition as before mentioned, shall wilfully and corruptly give false evidence, or shall in such affirmation, affidavit or deposition wilfully or corruptly swear, affirm or allege any matter or thing which shall be false or untrue, every such person so offending, and being thereof duly convicted, shall be and is and are hereby declared to be subject and liable to the pains and penalties of persons convicted of wilful and corrupt perjury by any law in force at the time of such perjury being committed.

20.
Plans of proposed improvements to be pub-

And be it Enacted, That the said Commissioner or Commissioners having ascertained and determined upon the works proper in his or lished by the Commissioners.

their judgment, to be executed under his or their commission shall, before proceeding with such works, prepare a Schedule, with such maps, plans, drawings and estimates thereto attached as may be necessary, showing and describing the works proposed to be executed, and the probable expense thereof, and the lands, tenements or hereditaments required to be taken for the purposes of this Act, and the mills, weirs, fisheries or other rights or franchises, so far as they may be known to the said Commissioner or Commissioners, liable to be anywise injuriously affected by the proposed works, and shall cause copies of such Schedule, with the maps, plans, drawings and estimates thereto annexed, to be made and deposited in such and so many convenient places in the county or counties wherein the proposed works shall be intended to be made, and of the premises mentioned in such Schedule, as he or they shall think proper, there to remain open to public inspection at all reasonable times for Three successive weeks, and shall cause notices of the place or places where the same may be deposited, to be posted in the usual places for posting grand jury notices in the said district, and shall also cause a like notice to be inserted once in each week for Three successive weeks in the *Dublin* Gazette and in some One or more newspaper or newspapers circulating in or in the neighbourhood of such county or counties; and the said Commissioner or Commissioners shall in and by such notice require all Grand Juries and persons who may desire to lodge objections to the said Schedule, to lodge the same at such place within the county or counties and before such time as shall be specified in the said notice, and the said Commissioner or Commissioners shall also in the said notice state that he or they will proceed to hear any objections which may be lodged, and finally to settle such Schedule at such time and place as shall be specified in the said notice, and he or they shall attend at such time and place accordingly, and shall examine into the matter of any objection which shall be so lodged as aforesaid, and shall hear all such proper evidence as may be offered to him or them in respect thereof, and shall make such rules as he or they may think proper upon the same, and shall make such alterations (if any) in the said Schedule as he or they shall deem fit, and shall finally settle and sign the said Schedule; and as soon as conveniently may be thereafter, lodge the same and the maps, plans, drawings and estimates thereto annexed, with the Clerk of the Peace for the county or one of the counties wherein the proposed improvements are to be made, who is hereby authorized and required to receive and deposit the same among the records of such county, upon receiving a fee of One Guinea for so doing: Provided always, That in case of any difference between the said Commissioners and any Grand Jury or party interested, and such party or Grand Jury so objecting as aforesaid, shall be at liberty to appeal to the Lord Lieutenant, who is hereby authorized to take such steps thereupon as to him shall seem meet.

21. Power to drain Lands and effect other improvements.

And be it Enacted, That it shall be lawful for any Commissioner or Commissioners for the purposes aforesaid, by such contractor or contractors, person or persons, surveyors, agents, workmen and labourers as he or they shall think fit to contract with or employ, to raise or make any embankments, and to make all such cuts, canals and other works as the said Commissioner or Commissioners may deem necessary for the improvement of the said lands, and for connecting one or more river or rivers, lake or lakes, with any other river or rivers, lake or lakes, or with the sea, and for rendering any river or rivers, lake or lakes navigable, and to take down, remove or alter any dams, weirs and other impediments, or so much thereof respectively and in such manner as he or they shall in his or their judgment think necessary and expedient, making due compensation for the same and for the damage to be done thereby to the respective owners thereof; and such Commissioner or Commissioners shall and may also widen, deepen, alter, enlarge, divert, contract, turn, change, discontinue or stop any river, stream, rivulet, brook, watercourse, drain or embankment in such manner as he or they shall think proper or necessary; and also shall and may make new roads, watercourses, sluices, drains, ditches, cuts, canals, dams, channels, culverts, tunnels, banks, bridges, outlets, weirs, engines, fences or other works, in, through, upon and over, as well the Lands proposed to be reclaimed or improved, as also in, through, upon and over any adjacent Lands (the same not being a garden, orchard, planted walk or avenue to any house), without the consent of the owners or proprietors thereof for the time being respectively, making due satisfaction to the owners or proprietors of such Lands; and the said Commissioner or Commissioners shall have full power to do or cause to be done all such other acts and things as he or they shall deem necessary for effecting all or any of the purposes of this Act, making due compensation to all persons for any damage occasioned to them by the exercise of any such powers.

22. Penalty on persons destroying or damaging works of drainage.

And be it Enacted, That if any person or persons who shall unlawfully, wilfully, maliciously or wantonly spoil, damage, injure or destroy any watercourse, sluice, drain, weir, embankment, fence or other work which shall be made, erected, widened or altered as aforesaid, for the reclaiming, draining or improving of any lands, or for effecting any other of the purposes of this Act, or shall unlawfully, wilfully, maliciously or wantonly stop or dam up any of the watercourses or drains, or throw, lay or place any matter or thing therein for that purpose, or which shall impede the free passage of water therein, or meddle or interfere with any floodgate or sluice, by means whereof any injury or damage shall or may be done to any of such lands, every such person being convicted thereof shall forfeit and pay such sum not exceeding Ten Pounds as any Justice of the Peace shall adjudge and order, over and besides the amount of the damage done, which damage shall be ascertained by any such Justice; and the said penalty and amount of the damage shall be applied in rectifying and repairing the said works so injured or damaged.

23.
Commissioners may enter Lands and dig for materials (after notice given to appear and show cause) making compensation.

And be it Enacted, That it shall be lawful for the said Commissioner or Commissioners, or any person or persons authorized by him or them respectively, to search for, dig, gather, take and carry away any materials out of any Lands or premises lying within or contiguous to the Lands proposed to be improved, for making and executing any of the works executed or to be executed under the provisions of this Act, making or tendering such satisfaction for the damage done to the owners or occupiers of the Lands where and from whence the same shall be dug, gathered and carried away, or over which the same shall be carried, as to the said Commissioner or Commissioners shall seem fit and reasonable; but it shall not be lawful for the said Commissioner or Commissioners, or any person by him or them authorized, to dig, gather, get or take or carry away any materials for the purposes aforesaid, out of or from any inclosed land or ground, until notice in writing signed by him or them respectively shall have been given to the owner or owners or occupier or occupiers of the lands or grounds from which the same are intended to be taken and carried away, to appear before any two or more Justices of the Peace sitting in petty sessions acting for the county or place in which the lands or grounds from whence such materials intended to be taken away shall be, to show cause why such materials should not be taken therefrom; and in case such owner or occupier or his agent shall attend pursuant to such notice, but shall not show sufficient cause to the contrary, such Justices shall, if they think proper, authorize the said Commissioner or Commissioners, or any person by him or them authorized or employed, to get, dig and carry away such materials, at such time or times as such Justices shall deem proper; and if such owner or occupier shall neglect or refuse to appear by himself or herself, or his or her agent, the said Justices shall and may, upon proof or oath of the service of such notice, (and which oath they are hereby empowered to administer (make such order therein as they shall think fit, as fully and effectually to all intents and purposes as if such owner or occupier or his or her agents had attended; and in case of any difference between the said Commissioner or Commissioners or the person authorized by him or them as aforesaid, and the owners or occupiers of such Lands, or any of them, from which such materials shall be taken or through which they may be carried, concerning the payments and Compensation for damages as aforesaid, it shall be lawful for any Two or more Justices of the Peace for the county or place in which the lands or grounds from whence such materials shall have been taken shall be situate, on Ten Days' notice thereof being given in writing by either party to the other, to hear, settle and determine the matter and amount of such payments and damages, and of the costs attending the hearing and determining the same.

If Party is dissatisfied with compensation, any two Justices of the county may settle the same.

And

24.
Commissioners to fill up holes and pits not found useful, and fence off those that may be found useful.

And be it Enacted, That if the said Commissioner or Commissioners, or any person authorized by him or them respectively, shall, by reason of the searching for, digging or getting any materials as aforesaid for making and executing any of the works hereby authorized to be executed, make or cause to be made any pit or hole in any common or other lands or grounds wherein such materials shall be found, the said Commissioner or Commissioners, or persons authorized by him or them, shall forthwith, where the same shall appear necessary to the said Commissioners for the security of the public, cause the same to be sufficiently fenced off during such time as the said pit or hole shall be found useful, and shall, within Six Days after having dug up sufficient materials, if such pit or hole is not likely to be further useful, cause the same to be filled up, sloped down or fenced off, and so continued; and if the same is likely to be further useful, the said Commissioner or Commissioners, or persons authorized by him or them, shall sufficiently secure the same by posts and rails or other fences, to prevent accidents to cattle or persons.

25.
Where paths are interrupted and cuts made so as to require bridges, Commissioners to make new ways and build bridges.

And be it Enacted, That if by any cut, drain or other work made in exercise of the powers hereby given, any Ways, Roads, Paths or Passages, whether the same be public, private, foot, cattle or carriage ways, shall be disturbed or interrupted, or any lands intersected in such manner as to render the future occupation thereof inconvenient or unprofitable, the said Commissioner or Commissioners shall if the same shall appear necessary, with all convenient speed after such works shall be completed, cause other convenient ways to be made and opened, and any bridges which may be required to be properly built for the convenient use and passage of any person or persons entitled to use such ways either on foot or with cattle or carriages, or for the convenience of the public or of the parties entitled to the use and occupation of any lands intersected in manner aforesaid, as the case may be, and to defray the expense of making such ways and erecting such bridges out of the monies to be raised by virtue of the award of the said Commissioner or Commissioners.

26.
In case new Bridges are built where old ones formerly stood, persons liable to repair the old ones shall repair the new.

Provided always, and be it Enacted, That in case of any Road, Way, Bridge, Drain, Channel or Watercourse which may heretofore have been usually kept in repair or ought to have been kept in repair by the owner or owners of any lands, or by any body corporate or Grand Jury, or by any person liable to the maintenance and repairs thereof by prescription or otherwise, and which shall or may have been diverted, taken down, rebuilt or altered under the powers of this Act, such new, diverted, substituted, altered or rebuilt road, way, bridge, drain, channel or watercourse, shall, after the completion thereof, be thenceforth maintained and kept in repair by such owners, body corporate or Grand Jury or other person respectively, in the same manner as such owners, body corporate, Grand Jury or other persons maintained and repaired or ought to have maintained and repaired as aforesaid such road, way, bridge, drain, channel or watercourse in respect of which such diversion, substitution, rebuilding or alteration as aforesaid may have been made.

27.
Power to take Lands.

And be it Enacted, That for the purposes aforesaid, or any of them, it shall be lawful for any Commissioner or Commissioners for the purposes aforesaid, or any of them, and he and they is and are hereby authorized and empowered to take and use, or cause to be taken and used any Lands, mills, tenements or hereditaments, and pull down and remove or cause to be pulled down and removed any mills which it may be deemed necessary and expedient to pull down and remove for the purposes aforesaid, or any of them, at any time after the expiration of Three calendar Months, after notice in writing from the said Commissioner or Commissioners, or his or their Agent duly authorized, of the intention to take or use the same, shall have been left with the tenant or tenants, occupier or occupiers of the same lands, mills, tenements or hereditaments, or shall have been affixed upon the same premises.

28.
Bodies Politic and Trustees, and other persons empowered to sell and convey.

And be it Enacted, That it shall be lawful for all bodies politic, corporate or collegiate, ecclesiastical or lay, aggregate or sole, and for all Trustees and feoffees in trust for charitable and other purposes, assignees of bankrupts and insolvents, and all executors and administrators, not only for and on behalf of themselves, their successors, heirs, executors and administrators respectively, but also for and on behalf of their respective cestuique trusts, whether infants, femes covert, idiots, lunatics or persons not born or not ascertained, or any other person or persons whomsoever, and to and for all tenants for life or for years, absolute or determinable on any life or lives, and all persons having any other partial or qualified estate or interest, not only for and on behalf of themselves, their heirs, executors, administrators and issue, but also for and on behalf of the person or persons entitled in remainder, reversion, expectancy or contingency, or for any other future estate or interest where such person or any of such persons, whether entitled to the next or any subsequent estate or interest, or any part thereof, shall not be ascertained, or shall be incapable of contracting for selling the same, and to and for all guardians on behalf of their respective wards, husbands on behalf of their respective wives, committees on behalf of the persons of whose estates they shall be committees, and the heirs, executors, administrators and issue of such wards, wives or persons respectively, and to and for all femes covert entitled in their own right to any such lands, mills, tenements or hereditaments, or to dower or to any other interest therein, on behalf not only of themselves, but also of their respective heirs, executors, administrators and issue; and also where such wards, wives,

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persons or femes covert respectively shall be tenants for life or in tail, or for years, or have any other partial or qualified estate or interest to and for such guardians, husbands, committees and femes covert, on behalf of the person or persons on behalf of whom such wards, wives, persons or femes covert respectively, if of full age, unmarried, and of sound mind, might have contracted for the same lands, mills, tenements or hereditaments, and to and for all and every other person or persons whomsoever who is, are or shall be seised or possessed of or interested in any lands, mills, tenements or hereditaments, which, or part of which, by the said Commissioner or Commissioners shall be thought necessary for any of the purposes aforesaid to contract for and sell the same, and every or any part thereof, to the said Commissioner or Commissioners; and all contracts and agreements which shall be made by such bodies politic, corporate or collegiate, trustee or trustees, or other person or persons as aforesaid, shall be valid and effectual in the law to all intents and purposes whatsoever; and all bodies politic, corporate or collegiate, and all persons whosoever contracting as aforesaid, are hereby indemnified for or in respect of any such sale which they, he, she or any of them shall respectively make by virtue or in pursuance of this Act.

29. When parties accept satisfaction or to treat, or cannot be found, Commissioners to issue a Precept for impannelling a Jury.

And be it Enacted, That if any body or bodies politic, corporate or collegiate, trustee or trustees, or any other person or persons seised, possessed of or interested in or hereinbefore authorized to contract for and sell any lands, mills, tenements or hereditaments, or any share or shares, estate or estates, interest or interests therein, or charge or charges thereon as aforesaid, or any occupier or occupiers thereof sustaining any loss, injury or damage as aforesaid, for and on his, her or their part or parts, or for or on the part of his, her or their cestuique trusts or wards, or of any other person or persons as aforesaid, shall refuse to accept such purchase-money, satisfaction or recompense, or other compensation as shall be offered by the said Commissioner or Commissioners, or if any body or bodies politic, corporate or collegiate, or any person or persons seised or possessed of or interested in any such lands, mills, tenements or hereditaments as aforesaid, shall (upon such notice as hereinbefore is mentioned, having been left with the tenant or tenants, occupier or occupiers of such land, mills, tenements or hereditaments, or affixed upon the same premises) for the space of calendar Months next after such notice neglect or refuse to send in the particulars of their, his or her claim, or shall neglect or refuse to treat or agree, or shall not agree for the sale of such lands, mills, tenements or hereditaments, or other respective shares, estates and interests therein or charges thereon, or cannot be found or known, or shall not produce and evince a clear title to the premises they are in possession of, or to the interest they shall claim therein, to the satisfaction of the said Commissioner or Commissioners, then and in every or any such case the said Commissioner or Commissioners shall, and he and they is and are hereby empowered thereupon or at any time thereafter to issue a Warrant or Warrants, Precept or Precepts under his or their hand or hands to the Sheriff of the county, or county of a city, or county of a town wherein such lands, mills, tenements, hereditaments or any part thereof shall be situate, commanding such Sheriff to summon, return and impannel a Jury; and such Sheriff is hereby authorized and required accordingly to summon, return and impannel substantial and indifferent persons qualified to serve on Juries; and the persons so to be summoned, returned and impannelled as aforesaid are hereby required to come and appear before the said Sheriff at such time and place as in such warrant or warrants, precept or precepts shall be directed and appointed, and to attend before the said Sheriff from day to day until discharged; and out of such persons so to be summoned, returned and impannelled, a Jury of men shall be drawn in such manner as Juries for the trial of issues joined in Her Majesty's Courts at *Dublin* are directed to be drawn; and in case a sufficient number of Jurymen shall not appear at the time and place appointed as aforesaid, some person to be by the said Sheriff appointed shall return other substantial, honest and indifferent men of the bystanders or others who can be speedily procured to attend that service, being so qualified as aforesaid, to make up the said Jury to the number of and all parties concerned shall and may have their lawful challenges against any of the said Jurymen, but shall not be at liberty to challenge the array; and the said Sheriff is hereby authorized and empowered from time to time, as often as occasion shall require, by precept or precepts to summon and call before him all and every or any person and persons whomsoever who shall be thought proper and necessary to be examined as a Witness or Witnesses on his, her or their oath or oaths, affirmation or affirmations, touching or concerning the premises; and the said Sheriff, if he thinks fits, shall and may, on the application of either party, likewise authorize the said Jury or any or more of them, either before or after they shall be sworn, to view the place or places and premises in question in such manner as he shall direct; and the said Sheriff shall have power to adjourn such meeting from day to day as occasion shall require, and to command such Jury, Witnesses and Parties to attend until all such affairs for which they were summoned shall be concluded; and the said Jury upon their oaths or affirmations (which oaths or affirmations, as well as the oaths or affirmations of such person or persons as shall be called upon to give evidence, the said Sheriff is hereby empowered and required to administer), shall inquire into, assess and ascertain and give a verdict for the sum or sums of money to be paid for the purchase or as a satisfaction or recompense for either the entirety of such lands, mills, tenements or hereditaments, or for any share or shares, estate or estates, interest or interests therein, or charge or charges thereon, as in such warrant or warrants, precept or precepts

Jury may be challenged.

precepts shall be directed, and the compensation which shall be made in respect of any injury or damage whatsoever to be sustained as aforesaid by any body or bodies politic, corporate or collegiate, person or persons, as in such warrant or warrants, precept or precepts shall be directed; and the said Jury in estimating such satisfaction or recompense shall take into their consideration the increase in value of the residue of any property of which such lands, mills, tenements or hereditaments shall form part in consequence of the improvements proposed to be made, and shall estimate such compensation by reference to what in the opinion of such Jury the property injured or damaged would have been worth if the improvements proposed to be made had not been in contemplation; and the said Sheriff shall give judgment for such purchase-money, satisfaction, recompense or compensation so to be assessed; which said Verdict or Verdicts and the said Judgment and Judgments thereupon shall be binding and conclusive to all intents and purposes upon all bodies politic, corporate or collegiate, and upon all persons whomsoever; provided that not less than   Days' Notice in writing of the time and place at which such Jury are so required to be returned and meet be given to the person or persons interested, or left with the tenant or occupier of the said lands, mills, tenements or hereditaments, or affixed upon the said premises; and the said Verdicts, Judgments and Determinations and all other proceedings of the said Sheriffs and Juries so to be made, given and pronounced as aforesaid, shall be fairly written on parchment and signed by the Clerk of the Peace for the time being of the county wherein such proceedings shall take place: Provided always, That such Jury shall (if required for the purposes for which they are summoned) sit each day Six Hours, and each Juryman shall not receive more than One Guinea for each days' attendance, and such Jury shall not commence sitting later than Eleven of the clock in the forenoon each day of sitting.

Verdict of Jury to be final.

Previous notice being given to Parties interested.

30.
Verdict of value of lands and damages to be ascertained separately.

And be it Enacted, That the said Sheriffs and Juries shall award all Determinations, Judgments and Verdicts which they shall make and give in execution of the powers hereby vested in them concerning the Value of Lands, mills, tenements or hereditaments, or any share or shares, estate or estates, interest or interests therein, or charge or charges thereon, separately and distinctly from any loss or damage to be sustained by any person or persons in consequence of the execution of any of the powers of this Act, and shall distinguish the value set upon the hereditaments, or share or shares, estate or estates, interest or interests therein, charge or charges thereon, and the money assessed or adjudged for such loss or damage as aforesaid separately and apart from each other; and when any money shall be assessed or adjudged for such loss or damage as aforesaid, the Jury shall, if required, award and declare whether the statement delivered by the claimant or claimants of the manner in which any amount of money which shall have been demanded as a compensation for the same, has been computed and made up, gave sufficient particulars to enable the said Commissioner or Commissioners to make a proper offer.

31. Jury to be under the same regulations as in the Courts in Dublin.

And be it Enacted, That every such Jury and Juryman as aforesaid, shall be under and subject to the same Regulations, Pains and Penalties, as if such Jury or Juryman had been returned for the trial of any issue joined in any of Her Majesty's Courts of Record in *Dublin*, and that all and every person and persons who in any examination to be taken by virtue of this Act shall wilfully give false evidence before the said Sheriff, or before any such Jury as aforesaid shall and may be prosecuted for the same, and upon conviction thereof shall be subject to such punishments and disqualifications as any person or persons can or may be subject to for Perjury by the Laws and Statutes of this realm.

32. By whom expenses of Jury shall be paid.

And be it Enacted, That in every case in which the said Commissioner or Commissioners shall have required a statement of the manner in which any amount of money which shall have been demanded as a compensation, has been computed and made up, and the Jury shall be of opinion that the statement delivered by the claimant or claimants did not give sufficient particulars to enable the said Commissioner or Commissioners to make a proper offer, then and in such case all the Costs and Expenses incurred in summoning, returning and impannelling such Jury, taking such inquisition, and the attendance of witnesses, and recording the verdict or judgment thereon, shall be paid and borne by such claimant or claimants; and in every other case where a verdict shall be given by any such Jury for more money than shall have been previously offered by or on behalf of the said Commissioner or Commissioners as a recompense or satisfaction for any such lands, mills, tenements or hereditaments as aforesaid, or for any such estate, right or interest therein, or for any damages that may have been sustained by any person or persons as aforesaid, all the costs and charges incurred as aforesaid shall be borne by the said Commissioner or Commissioners; and in every case, except as aforesaid, where a verdict shall be given by any such Jury for no more or for less money than shall have been previously offered by or on behalf of the said Commissioner or Commissioners, as such recompense or satisfaction as aforesaid, all the costs and charges incurred as aforesaid shall be borne in equal proportions by the party or parties refusing or neglecting to treat or agree as before mentioned, and by the said Commissioner or Commissioners; but in cases where any person or persons, party or parties shall have been prevented by absence from entering into any treaty with the said Commissioner or Commissioners, the costs and charges so incurred shall be borne by the said Commissioner or Commissioners in manner aforesaid; and in all cases where any difference

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difference shall arise touching the amount of the said costs and charges, the same shall be taxed by the Prothonotary or other proper officer for the time being of the Court of Queen's Bench in *Dublin*; and where the costs shall be payable by the party or parties having any such disagreement or dispute with the said Commissioner or Commissioners as aforesaid, the amount thereof having been first paid by the said Commissioner or Commissioners, may be deducted by him or them out of the monies awarded to be paid to such party or parties, as so much advanced for his her or their use; and the payment or tender of the balance of such money shall be deemed and taken to all intents and purposes whatsoever to be a payment or tender of the whole money awarded and adjudged to such party or parties: Provided always, That no Jury which shall be summoned by virtue of this Act, shall assess or award any sum or sums of money to any body or bodies politic, corporate or collegiate, person or persons, by way of compensation for any injury or damage in consequence of the execution of any of the powers of this Act, unless such a statement as hereinbefore is mentioned of the particulars of every such claim, shall have been given or left as aforesaid Days at least before the time of the meeting of such Jury: And provided also, That all the costs and charges hereinbefore directed to be borne by the said Commissioner or Commissioners, shall be accounted part of the expenses incident to the improvements made under this Act, and shall be paid by the proprietors of the lands improved pursuant to the award of the said Commissioner or Commissioners, to be made as hereinafter mentioned.

Notice of injury to be given, or Jury not allowed to award compensation for the same.

33.

Sheriff may fine Jurors or Witnesses for not attending

And be it Enacted, That the said Sheriff shall have power and authority from time to time to impose any reasonable Fine, not exceeding the sum of on any of the persons summoned and returned on any such Jury or Juries who shall not appear, without some reasonable excuse, or shall refuse to be sworn on the said Jury or Juries, or being so sworn shall not give his or their verdict, or shall otherwise neglect his or their duty; and also on any Person or Persons summoned to give evidence touching any of the matters aforesaid, who shall not attend, having been paid or tendered a reasonable sum for his, her or their expenses, or shall refuse to be sworn or to affirm, or to give his, her or their evidence; and on any other person or persons who shall in nay other manner wilfully neglect his, her or their duty in the premises, contrary to the true intent and meaning of this Act; and from time to time to levy a fine or fines by order of the said Sheriff, by distress and sale of the offender's goods, together with the reasonable charges of every such distress and sale, returning the overplus (if any) to the owner or owners, and that a copy of the order of the said Sheriff, signed by the Clerk of the Peace for the time being of the county, shall be sufficient authority to the person or persons therein to be appointed, and to every other person acting or aiding and assisting therein, to make such distress and sale; and all such fines shall be paid to The King's most Excellent Majesty.

34. Verdicts and Judgments to be entered among the Records.

And be it Enacted, That all such Verdicts, Judgments, Sentences, Determinations, Orders and other Proceedings of every such Sheriff, as relate to or concern any of the cases before mentioned, and all receipts which the cashier or cashiers of the Bank shall give for any sum or sums of money paid into the Bank in manner hereinafter mentioned, in consequence of any verdict or judgment, shall be entered among the Records of the said Court of Queen's Bench in *Dublin*, and the said verdicts, judgments, sentences, decrees and orders, and other proceedings, shall be deemed and taken to be records to all intents and purposes whatsoever; and the same, or true copies thereof, shall be deemed and taken to be good and effectual evidence in any court or courts of Law or Equity whatsoever, and all persons shall and may have recourse to the same gratis, and take copies thereof, paying for every copy not exceeding   for every seventy-two words, and so proportionably for any greater or less number of words.

35. Application of Purchase-money or Compensation when amounting to £. 200.

And be it Enacted, That if any Money shall be agreed or awarded to be paid for any lands, mills, tenements or hereditaments, or part or parts thereof, or share or shares, estate or estates, interest or interests therein taken or purchased by virtue of the powers of this Act, which shall belong to any body politic, corporate or collegiate, or which shall belong to any trustee or trustees or other person or persons who hath or have no power to give a valid receipt for the same, or to sell the same premises otherwise than by virtue of this Act, or for any estate of freehold belonging to a feme covert, such money shall in case the same (after such deduction, if any, for costs, as hereinbefore is mentioned) shall amount to the sum of Two hundred Pounds or upwards, with all convenient speed, be paid into the Bank of *Ireland* in the name and with the privity of the Accountant General of the Court of Chancery in *Ireland*, to be placed to his account there ex-parte the person or persons on whose behalf the same shall be so paid, pursuant to the method prescribed by an Act made in the twenty-third and twenty-fourth years of the reign of King GEORGE the Third, chapter twenty-second, and the General Orders of the said Court, and without fee or reward, and shall, when so paid, be applied under the direction and with the approbation of the said Court, to be signified by an order made upon a Petition to be preferred in a summary way by the body or bodies, person or persons who would have been entitled to the rents and profits of the said lands, mills, tenements or hereditaments, in the redemption or discharge of any debt or debts, or such other incumbrances or part thereof as the said Court shall authorize to be paid, affecting

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affecting the same lands, mills, tenements or hereditaments, or part or parts thereof, or share or shares, estate or estates, interest or interests therein, or charge or charges thereon, or affecting other lands, tenements or hereditaments standing settled therewith, to the same or the like uses, intents or purposes, or where such money shall not be so applied, then the same shall be laid out and invested, under the like direction and approbation of the said Court, in the purchase of lands, tenements or hereditaments which shall be conveyed and settled to, for and upon such and the like uses, trusts, intents and purposes, and in the manner as the lands, mills, tenements or hereditaments, or any part or parts thereof, shares, estates, interests or charges which shall be so taken or purchased as aforesaid, stood settled or limited, or such of them as at the time of making such conveyance and settlement shall be existing undetermined and capable of taking effect; and in the meantime and until such purchase shall be made, the said money shall, by order of the said Court, upon application thereto, be invested by the said Accountant General in his name, in the purchase of Three Pounds per centum Consolidated or Three Pounds per centum Reduced Bank Annuities; and in the meantime, and until the Bank Annuities shall be ordered by the said Court to be sold for the purposes aforesaid, the Dividends and annual produce of the said Consolidated or Reduced Bank Annuities shall from time to time be paid, by order of the said Court, to the body or bodies, person or persons who would for the time being have been entitled to the rents and profits of the said lands, mills, tenements or hereditaments so hereby directed to be purchased, in case such purchase and settlement were made.

36. Application where the compensation shall be less than £. 200, and exceed £. 20.

Provided always, and be it Enacted, That if any such money which shall be agreed or awarded to be paid for any lands, mills, tenements or hereditaments, or part or parts thereof, or share or shares, estate or estates therein, or charge or charges thereon, taken or purchased as aforesaid, belonging to any Corporation or any trustee or trustees, person or persons, or feme covert, as aforesaid, which (after such deduction, if any, for costs, as hereinbefore is mentioned) shall be less than the sum of Two hundred Pounds, and shall exceed or be equal to the sum of Twenty Pounds, then and in all such cases the same shall, at the option of the body or bodies, person or persons for the time being entitled to the rents and profits of the lands, mills, tenements or hereditaments, or parts, shares, estates, interests or charges so taken or purchased, or of the guardian or guardians, committee or committees of such person or persons in case of infancy or lunacy, to be signified in writing under their respective hands or seals, be paid in the name and with the privity of the said Accountant General of the Court of Chancery, to be placed to his account as aforesaid, in order to be applied in manner hereinbefore directed, or otherwise the same shall be paid at the like option to Trustees, to be nominated by the body or bodies, person or persons making such option, and approved of by the said Commissioner or Commissioners (such nomination and approbation to be signified in writing under the hands and seals or the seals of the nominating and approving persons), in order that such principal money and the dividends arising thereon may be applied in manner hereinbefore directed, so far as the case be applicable, without obtaining or being required to obtain the direction or approbation of the Court of Chancery.

37.
Application where the money is less than £.20.

Provided also, and be it Enacted, That where such money so to be paid as aforesaid shall be less than Twenty Pounds, then and in all such cases the same shall be applied to the use of the body or bodies, person or persons who would for the time being have been entitled to the rents and profits of the lands, mills, tenements or hereditaments, parts, shares, estates, interests or charges taken or purchased as aforesaid, in such manner as the said Commissioner or Commissioners shall think fit; or in case of the infancy or lunacy of such person or persons, then such money shall be paid to his, her or their guardian or guardians, committee or committees, to and for the use and benefit of such person or persons so entitled respectively.

38.
Purchase-money to be paid into the Bank where owners cannot be found or cannot make a good Title.

And be it Enacted, That if any body or bodies politic, corporate or collegiate, person or persons seised or possessed of or interested in any lands, mills, tenements, or hereditaments or share or shares, estate or estates, interest or interests therein, or charge or charges thereon as aforesaid, cannot be found, or shall not be known, or shall not make out and deduce a good Title to the premises to the satisfaction of the said Commissioner or Commissioners, then such sum or sums of Money as shall have been contracted and agreed or shall have been assessed and awarded by any Jury or Juries in manner aforesaid to be paid for the purchase or for the value of the same premises, after retaining thereout such costs and charges (if any) as are hereinbefore authorized to be deducted from the same, shall be paid into the Bank of *Ireland* in the name and with the privity of the said Accountant General of the said Court of Chancery, to be placed to his account to the credit of the party or parties interested in the said lands, mills, tenements or hereditaments, parts, shares, estates, interests or charges (describing such lands, mills, tenements or hereditaments); or if such party or parties shall not be known, then to the credit of the then unknown person or persons interested in the said lands, mills, tenements or hereditaments, parts, shares, estates, interests or charges (describing the same tenements or hereditaments), subject to the order, control and disposition of the said Court of Chancery; which said Court, on the application of any body or bodies, person or persons making claim to such sum or sums of money, or any part thereof, by motion or petition, shall be and is hereby empowered in a summary way, proceeding

ceeding or otherwise, as to the same Court shall seem meet, to order the same to be laid out and invested in the public funds, and to order distribution thereof, or payment of the dividends thereof, according to the respective estate or estates, title or interest of the body or bodies, person or persons making claim thereunto, and to make such other order in the premises as to the said Court shall seem meet, just and reasonable; and the cashier or cashiers of the Bank of *Ireland* who shall receive such sum or sums of money is and are hereby required to give a receipt or receipts for such sum or sums of money, mentioning and specifying for what the same is or are received, to such person or persons as shall pay any such sum or sums of money into the Bank as aforesaid.

39. Premises purchased to vest in the Commissioners on payment of purchase-money.

And be it Enacted, That upon Payment or tender of the Purchase-money or compensation for any lands, mills, tenements and hereditaments, after deducting thereout such costs and expenses (if any) as aforesaid, to the person or persons entitled to receive the same, or into the Bank of *Ireland* under the provisions hereinbefore contained, the lands, mills, tenements or hereditaments, or parts, shares, estates, interests or charges for the purchase or as the value of which such purchase-money or compensation shall have been so paid or tendered, and the fee-simple and inheritance thereof, or other the absolute interests therein, together with the yearly profits, and all the estate, right, title, interest, use, trust, property, claim and demand in law and in equity of the body or bodies, person or persons, or unknown person or persons to whom or to whose credit such money shall be paid in, to and out of such lands, mills, tenements, hereditaments and premises, shall vest in the said Commissioner or Commissioners, and he and they shall be deemed in law to be in the actual seisin or possession thereof, to all intents and purposes whatsoever, as fully and effectually as if such person or persons and every body or person having any estate in the premises had actually conveyed the same by lease and release, bargain and sale, enrolled feoffment with livery of seisin, or any other conveyance or assurance whatsoever; and such payments shall not only bar all right, title, interest, claim and demand of the body or bodies, person or persons or unknown person or persons of, in or to the same premises, to whom or to whose credit such payment shall have been made, but also shall extend to and be deemed and construed to bar the dower and dowers of the wife and wives of such person or persons, and all estates tail and other estates in possession, reversion, remainder, expectancy or contingency, and the issue and issues of such person or persons, and every other person whomsoever.

40. In case of a doubt upon the title, the Interest of the money paid into the

Provided always, and be it Enacted, That where any Question shall arise touching the Title of any body or bodies politic, corporate or collegiate, person or persons, to any money to be paid into the Bank of *Ireland*, Bank shall be paid to the person who was in possession of the premises when bought.

Ireland, in the name and with the privity of the Accountant General of the said Court of Chancery in pursuance of this Act, for the purchase of or in satisfaction for any lands, mills, tenements or hereditaments, or part or parts thereof, or of any estate, right, title, charge or interest in, to or upon any tenements or hereditaments to be taken or purchased in pursuance of this Act, or of any Bank Annuities to be purchased with any such money, or the dividends or interest of any such Bank Annuities, the body or bodies politic, corporate or collegiate, person or persons who shall have been in the possession of such mills, lands, tenements or hereditaments, parts, shares, estates, interests or charges at the time of such purchase, and all body or bodies, person or persons claiming under such person or persons, or under the possession of such body or bodies, person or persons, shall be deemed and taken to have been lawfully entitled to such tenements or hereditaments, parts, shares, estates, interests or charges, according to such possession, until the contrary shall be shown to the satisfaction of the said Court of Chancery; and the Dividends or Interest of the Bank Annuities to be purchased with such money, shall be paid, applied and disposed of accordingly, unless it shall be made to appear to the said Court that such possession was a wrongful possession, and that some other person or persons was or were lawfully entitled to such tenements or hereditaments, or part or parts thereof, or to some estate or interest therein or charge thereon.

41.
Estate Mortgagees to vest in Commissioners on payment of principal and interest.

And be it further Enacted, That if any person or persons shall have any mortgage or mortgages, or be entitled to any sum or sums of money due on judgment or other security, or otherwise charged on such lands, mills, tenements or hereditaments as shall be taken or purchased by virtue of this Act, or any parts or shares thereof by virtue of such mortgage or mortgages, or security or securities, then and in such case, on payment of the principal and interest due thereon to such mortgagee or mortgagees, person or persons, or into the Bank for the use of the mortgagee or mortgagees, or person or persons entitled thereto, all the estate, right, title, interest, use, trust, property, claim and demand whatsoever of the said mortgagee or mortgagees, or other person or persons, and of all and every person or persons in trust for him, her or them, shall vest in the said Commissioner or Commissioners, and he and they shall be deemed to be in the actual possession of the premises comprised in such mortgage or mortgages, or other security or securities freed and discharged from the said mortgages securities, judgment or other debts, to all intents and purposes whatsoever: Provided always, That if the money and interest due in respect of any mortgage or mortgages, security or securities, charge or charges of any lands, mills, tenements or hereditaments, or part or parts thereof, which shall be purchased or taken by virtue of this Act, shall amount to more than the value of the premises charged therewith, or such

Or if such principal and interest exceed the value of the property then on payment of the value;

such of them, or of such part or parts thereof as shall be purchased or taken by virtue of this Act, then upon payment to such mortgagee or mortgagees, person or persons, or into the Bank in manner hereinbefore mentioned, of the sum to be ascertained as the value of the lands, mills, tenements or hereditaments, or part or parts thereof, so to be taken and purchased as aforesaid, all the estate, right, title, interest, property, claim and demand whatsoever of the said mortgagee or mortgagees, person or persons as aforesaid, and of all and every person or persons in trust for him, her or them, in the said lands, mills, tenements or hereditaments, or part or parts thereof, the value whereof shall have been so ascertained and paid as aforesaid, shall vest in the said Commissioner or Commissioners, and he and they shall be deemed to be in the actual possession of the said premises to all intents and purposes whatsoever, and freed and discharged as aforesaid; and the mortgager or mortgagers, or other person or persons shall be and is and are hereby barred and foreclosed from all right and equity of redemption of and in the same premises, and all the estate, right, title, interest, property, claim and demand of him, her or them, and every person and persons in trust for him, her or them in the same premises, shall vest in the said Commissioner or Commissioners, and he and they shall be deemed to be in the actual possession thereof to all intents and purposes whatsoever.

and Mortgagers be foreclosed.

42.
Possession to be delivered upon three Months' notice.

And be it Enacted, That all and every body and bodies, person and persons in the actual possession of any lands, mills, tenements or hereditaments, or any part thereof, to be taken or purchased by virtue of this Act, as owner, leaseholder, tenant at will or lessee for a year, or any shorter time, or otherwise, shall at the expiration of Three calendar Months from and after notice in writing from the said Commissioner or Commissioners shall have been left at the premises, or so soon after as he, she or they shall be required, peaceably and quietly deliver up the Possession of the said premises to the said Commissioner or Commissioners, or the person or persons authorized by him or them to take possession thereof; and in case any such body or bodies, person or persons shall refuse to give up such possession as aforesaid, then it shall be lawful for the said Commissioner or Commissioners to issue their precept or precepts to the Sheriff of the county wherein such premises shall be situate, to deliver possession of the said premises to such person or persons as shall in such precept or precepts be nominated to receive the same; and the said Sheriff is hereby required to deliver such possession accordingly of the said premises, and to levy such costs as shall accrue from the issuing of such precept or precepts on the person or persons so refusing to give up such possession as aforesaid, by distress and sale of his, her or their goods.

43.
Commissioners to account yearly.

And be it Enacted, That once at least in every half year the said Commissioner or Commissioners for the purposes aforesaid shall and he and they is and are hereby required to make out and prepare a true and just Account or statement of all sums of money by him or them received and expended, and such Account or statement when so made, together with the vouchers relating thereto, shall be by him or them laid before the Proprietors of the land so proposed to be improved, at some meeting to be held for the purpose of receiving and settling such Account, (such meeting to be called in the manner hereinbefore directed with respect to the sittings of the said Commissioner or Commissioners), and also before the Grand Juries of the counties, counties of cities and counties of towns liable to be assessed under the provisions hereinafter contained, to be by such Proprietors and Grand Juries examined and balanced, and such balance, if then and there agreed upon between the said Commissioner and Commissioners, and the major part in value or extent of the said Proprietors, and such Grand Juries as aforesaid, shall be stated in the book of accounts to be kept by the said Commissioner or Commissioners; and, in case of any difference between the said Commissioners and the said Proprietors and Grand Juries respectively, the said Proprietors and Grand Juries respectively shall be at liberty to appeal to the Lord Lieutenant, who is hereby authorized to take such steps thereupon as to him shall seem meet.

44.
Commissioners shall inquire into the Boundaries of parishes and estates, and if not sufficiently ascertained, they shall fix them, giving previous notice of their intention so to do.

AND whereas disputes or doubts may arise concerning the Boundaries of parishes, properties and estates adjoining or near to the lands improved, embanked, drained or otherwise improved under this Act, or adjoining or near to any other of the works to be executed under the provisions of this Act; BE it therefore Enacted, That the said Commissioner or Commissioners shall and he and they is and are hereby authorized and required by examination of witnesses upon oath or affirmation (which oath or affirmation such Commissioner or any one of such Commissioners is hereby empowered to administer), and by such other legal ways and means as he or they shall think proper, to inquire into the Boundaries of such several parishes, properties and estates; and in case it shall appear to such Commissioner or Commissioners that the Boundaries of the same respectively are not then sufficiently ascertained and distinguished, such Commissioner or Commissioners shall and he and they is and are hereby authorized and required to ascertain, set out, determine and fix the same respectively; and after the said Boundaries shall be so ascertained, set out, determined and fixed, the same shall be and are hereby declared to be the Boundaries of such parishes, properties and estates: Provided always, That such Commissioner or Commissioners (before proceeding to ascertain and set out the Boundaries of such parishes, properties and estates) shall and he and they is and are hereby required to give public notice by writing under his or their hand or hands, to be affixed on the most public doors of the Protestant Church or Chapel (if any), and also on the most public doors of the Roman Catholic Chapel (if any) in such parishes, and also by advertisement in some one newspaper usually circulated within the district of such parishes, properties and estates, and also by writing to be delivered to or left at the last or usual places of the abode of the respective owners or proprietors of any properties or estates in which the lands and grounds to be reclaimed or improved shall be situate, and of such adjoining properties or estates, or of their known Agent or Agents Ten Days at least before the time of setting out such Boundaries, of their intention to ascertain, set out, determine and fix the same respectively; and such Commissioner or Commissioners shall within One Month after ascertaining and setting out the same Boundaries, cause a description thereof in writing to be delivered to or left at the place of abode of the Clerk of the Peace of the county in which such lands and grounds shall be situate, and also of such respective owners or proprietors or their agents or stewards: Provided always, That if any person or persons interested in the determination of the said Commissioner or Commissioners respecting the said Boundaries shall be dissatisfied with such determination, such person or persons may by himself or his agent, appeal to the next coming Judge of Assize for the county in which such lands or grounds shall be situate; the party or parties making such appeal giving Eight Days' notice of such appeal and of the matter thereof in writing to the Commissioner or Commissioners; and the Decision of the said Judge therein shall be final and conclusive, and shall not be removed or removable by certiorari, or any other writ or process whatsoever, into any of Her Majesty's Courts of Record at *Dublin* or elsewhere.

Commissioners shall cause a description of Boundaries to be delivered to Clerk of the Peace, and owners or proprietors of lands to be inclosed, or their agents or stewards.

Persons dissatisfied may appeal to the Judge of Assize.

Decision of Judge to be final.

45.
Duration of Commission.

And be it Enacted, That no Commission to be issued as aforesaid shall have longer continuance than for the term of Five Years, to be computed from the issuing thereof, except that it shall be lawful for the Lord Lieutenant, or other Chief Governor or Governors of *Ireland* for the time being, if he or they shall so think fit, by warrant under his or their hand or hands issued not more than Six calendar months before the expiration of any such Commission, to continue the same for any further time not exceeding Two Years from the expiration of the former Commission.

46.
Commissioners to make Award.

And be it Enacted, That as soon as conveniently may be after any embankments, drainage or other improvements shall have been finished under this Act, the Commissioner or Commissioners shall in every case form and draw up, or cause to be formed and drawn up, an Award or instrument in writing which shall express the quantity of acres, roods and perches in statute measure contained in the said lands so improved, embanked and drained, and the situations and descriptions of the same respectively, and the quantity and contents of each owner's property therein, and other the improvements effected by virtue of this Act; And such Award shall also apportion the amount of the sums which shall have been expended in and about the improvements which shall have been made, and of all expenses incident thereto, (including the interest of all monies advanced upon the lands so improved, and including such remuneration to the said Commissioner or Commissioners for his or their time and trouble and expenses, as to the Commissioners of Public Works in *Ireland* shall seem reasonable) upon the said lands, and the estates of which such lands form part respectively, situate in the same barony, and shall be held with such lands under the same limitation contained in the same instrument, or the same set of instruments, and shall also specify the amount of the contribution which the owner or owners of such lands and estates respectively shall pay towards the total amount so expended, and all the expenses incident to the said improvements; And in case of any rivers or lakes being connected the one with the other, or rendered navigable under this Act, the said Award shall specify the amount of the contribution to be borne in respect of the connexion of or the rendering navigable such rivers or lakes, separately and distinctly from the amount of the contribution to be borne in respect of the other improvements made under this Act, and shall determine the amount of contribution (if any) which the Proprietors ought to contribute in respect of the connexion of or the rendering navigable such rivers and lakes; And the sums specified in such Award, as the amount of the contribution by the Proprietors so to be paid towards the total amount so expended as aforesaid, with interest not exceeding Five Pounds per centum per annum, from the date of such Award, shall be and be considered as charges upon the lands and estates for or in respect of which such sums shall by the said Award be directed or required to be paid; And the said Commissioner or Commissioners shall also cause to be inserted in every such Award, proper orders and directions of and concerning the laying out, making, maintaining, cleansing and keeping in repair the watercourses, sluices, drains, ditches, cuts, rivers, lakes, streams, tunnels, culverts, banks, bridges, outlets, weirs, engines, embankments, fences and other works to be made under this Act, and all such other rules, orders, agreements, regulations, directions and determinations, as the said Commissioner or Commissioners shall think necessary and proper; And the said Commissioner or Commissioners shall also cause to be specified in every such Award the proportion or contribution to which the lands so improved and the estates of which such lands form part respectively as aforesaid, shall in future be subject and charged with towards the costs and expenses which may from time to time be incurred in or about the maintaining, cleansing and keeping in repair the said watercourses, sluices, drains, ditches, cuts, rivers, lakes, streams, tunnels, culverts, banks, bridges, outlets, weirs, engines, embankments, fences and other works, specifying in such Award the amount of the proportion or contribution to be borne for maintaining and keeping in repair any works connected with such rivers or lakes as aforesaid, distinctly from the amount of the proportion or contribution to be borne in respect of the maintaining and keeping in repair such other improvements as aforesaid; And every such proportion or contribution as hereinbefore mentioned, shall be stated and fixed as and at so many parts of an unit, and shall be charged and chargeable upon such Lands and Estates respectively as aforesaid, as a rate or tax for keeping the same works in a proper state and condition, and shall and may be levied upon or in respect of the same lands and estates, and the owners thereof respectively, as often as any monies shall from time to time be expended in any such works.

47.
Clause (E.)
Commissioners shall adjudicate upon the proportions of expense to be borne by the counties, &c. benefited under this Act.

And be it Enacted, That the said Commissioner or Commissioners shall in his or their Award ascertain and set forth the several counties, counties of cities, counties of towns, or partsthereof respectively, through or near to which the rivers or lakes so to be made navigable or connected as aforesaid are situate, and which are likely to derive benefit from such connexion or improved navigation, or from any work proposed to be executed by the said Commissioners, and shall ascertain and determine the proportions in which such benefit is likely to accrue to such counties of cities, counties of towns or parts thereof respectively; and the said Commissioners or Commissioner shall, by writing under his or their hand or hands, certify the amount of such contribution to the Secretary of the respective Grand Juries of the said counties, counties of cities, or counties of towns, and which Grand Juries are hereby directed and required to present the amount thereof, to be raised in like manner as the county cess, and to be paid to the said Commissioner or Commissioners for the purposes of this Act.

The amount to be raised by the Grand Jury.

48.
Draft of Award to be deposited.

And be it Enacted, That a draft of every Award of the Commissioner or Commissioners under this Act, shall within One calendar Month next after the making thereof be deposited with the Clerks of the Peace for the county or counties, counties of cities, or counties of towns, wherein such improvements are made, who are hereby authorized and required to receive the same, upon receiving a fee of One Guinea for so doing.

49.
If any Owner be dissatisfied with Award, Jury to be summoned.

Provided always, and be it Enacted, That if any Grand Jury Owner or Owners, whether absolute or partial, shall be dissatisfied with the draft of the Award of the said Commissioner or Commissioners, as to the apportionments which shall have been thereby made, or any of them, or any others of the matters therein contained, it shall be lawful for such Grand Jury party or parties to signify his, her or their dissent in writing to the said Commissioner or Commissioners at any time within

Three calendar Months next after the draft of the Award shall be so deposited as aforesaid; and the said Commissioner or Commissioners shall forthwith forward such dissent, together with a warrant containing an extract from the Award of such part thereof as relates to the apportionment or apportionments, or other matters objected to, to the Sheriff of the county within which the lands to which such apportionment or apportionments, or other matters relate shall be situate, and which warrant shall be a sufficient authority to such Sheriff to hold an inquisition in pursuance thereof; and such Sheriff shall and he is hereby authorized and required within Twenty Days next after the receipt of such warrant, to summon and impannel a Jury as in cases of inquisition, and such Jury shall consider and confirm or alter and amend the apportionment or apportionments, or other matters objected to, and shall make such order as to the payment of the costs of such proceedings as they shall think fit; and such apportionment or apportionments, or other matters, when so confirmed or altered and amended, and such order as to costs, shall be final and conclusive; and for the purposes of such inquisition the said Sheriff shall and he is hereby authorized and required to summon any witness or witnesses to attend such inquisition, and to administer the usual oaths to such Jury and witness or witnesses respectively; and every such inquisition shall be deemed and taken to be an inquisition in the County Court of such Sheriff; and such Sheriff shall have all the powers and authorities as to such inquisition as he by law possesses for any other inquiry in such County Court; and the said Commissioners shall thereupon proceed to make such alterations in their award as shall be necessary.

Powers of Sheriff.

50.
Award to be deposited.

And be it Enacted, That the award, when finally settled, shall be deposited with the said Clerk of the Peace, who is hereby authorized and required to receive and deposit the same amongst the records of the county, upon receiving such fee as aforesaid, and the same shall be enrolled as of record in such County Court.

51.
Apportioned Expenses to have priority over other charges on Lands improved.

And be it Enacted, That every such apportionment as shall be so made as aforesaid by the award of the said Commissioner or Commissioners, shall be and the same is hereby declared to be a Charge on the respective Lands and such Estates as aforesaid in respect of which such apportionment shall have been made, and in respect of the Lands so improved in priority over all other interests and incumbrances in or upon such Lands.

52.
In case of non-payment of money so charged, it may be levied by distress.

And be it Enacted, That if Default shall be made in the payment or the sum or sums charged on and made payable out of any such lands and estates by virtue of such award, for the improvements which shall have been made as aforesaid, it shall and may be lawful for the Commissioner or Commissioners to enter into and upon such lands and estates, and to levy by Distress and sale of any goods or chattels which may be found thereon, the sum or sums so due and in arrear, together with all costs and charges attending such distress and sale, rendering the overplus (if any) to the owner of such goods or chattels; and in case sufficient goods and chattels to satisfy such sum or sums so due, with the costs and charges aforesaid, cannot be found thereon, then and in such case it shall and may be lawful for the said Commissioner or Commissioners or any person or persons for that purpose authorized by him or them to enter upon the said Lands and Estates, and the rents and profits thereof to receive and take, until thereby or otherwise the sum so due, together with all costs and expenses attending or occasioned by such entry and receipt of the rents, profits and issues of such Lands and Estates shall be fully paid and satisfied.

If there is not goods or chattels sufficient, the Commissioners may enter upon the Lands.

53.
If Lands are untenanted and Commissioners shall not choose to enter upon them, goods and chattels thereafter found shall be liable.

And be it Enacted, That in case any Lands or Estates in respect whereof any sum or sums so due shall remain unpaid as aforesaid, shall at any time be untenanted or unoccupied, so that sufficient distress cannot be found whereon to levy the same, and the said Commissioner or Commissioners shall not think proper to enter upon the same as aforesaid, then the said Lands and Estates shall remain liable thereto; and all Goods and Chattels which shall at any time thereafter be found thereon, shall and may be distrained and sold in manner aforesaid, until all arrears and the charges of such distress and detaining, keeping and selling the same shall be fully paid and satisfied.

54.
Clause (G.)
Tenants in certain cases to deduct the Assessments made under this Act from their Rent.

Provided always, and be it Enacted, That all and every person or persons who may hold any land as tenant shall and may deduct from the rent due or payable to his, her or their landlord all and every such sum or sums of money as may be raised or levied on or off such lands, and paid by such tenant, by virtue of any charge or assurance whatsoever, made under the authority of this Act; and the receipt or receipts of the holder of such charge or assurance shall be a good acquittance for so much of the said rent as shall be expressed therein.

55.
Power to borrow Money.

And be it Enacted, That it shall and may be lawful to and for the owners and proprietors, and also to and for the husbands or guardians, trustees or committees or attornies, assignees, mortgagees in possession, or persons acting as guardians, trustees, committees or attornies for the owners and proprietors of the lands improved under this Act, being under coverture, minors, lunatics, or beyond the seas, or otherwise incapable to act for themselves, and to and for every of them for the time being, and for any of the said owners or proprietors being tenants in tail or for life only, and to and for every of them respectively for the time being, to raise and borrow the Sum or Sums charged upon their lands and estates respectively by the award of the said Commissioner or Commissioners, for the improvements which shall have been made as aforesaid, and for securing the repayment of all and every such sum and sums of money, with interest, to grant, mortgage, lease or demise, or otherwise subject the lands and estates belonging to them respectively unto such person or persons as shall advance and lend such sum or sums of money respectively for any term or number of years, so as every such grant, mortgage, lease or demise be made with a proviso or condition to cease and be void, or with an express trust to be surrendered when such sum or sums of money thereby to be secured, with the interest thereof, shall be fully paid and satisfied, and so as every such grant, mortgage, lease or demise do also contain a proviso that the person or persons entitled in remainder or reversion to any such lands shall not be liable, upon his, her or their becoming possessed thereof, to the payment of any further or larger arrear of interest than for One Year preceding the time that his, her or their title to such possession shall have commenced.

56. Tenants for life, &c., paying expenses, to have charges on the inheritance for the amount.

And be it Enacted, That it shall be lawful for any Tenant or Tenants in tail or for life or for any other partial interest of any of the said lands and estates, by any deed or deeds in writing, or his, her or their last will and testament duly executed according to law, to charge such lands and estates as shall not have been so mortgaged or charged with such sum or sums of money as shall be awarded by the Commissioner or Commissioners to be paid, and which shall have been accordingly paid by such respective Tenant or Tenants in tail or for life or for any other partial interest for his, her or their share or proportion of the Costs, Charges and Expenses of the improvements which shall have been so made as aforesaid; which sum and sums of money so to be charged as aforesaid shall be payable within One Year next after the decease of every such tenant in tail or for life, or for any other partial interest, with interest for the same not exceeding the rate of Five Pounds per centum per annum, to be computed from his, her or their decease or respective deceases, unto such person or persons as such tenant or tenants in tail or for life or for any other partial interest, shall by such deed or will and testament respectively direct or appoint, and in default of such direction and appointment, the sum and sums of money which shall have been so paid by such respective tenant or tenants in tail or for life, or for any other partial interest as aforesaid, with interest for the same after the rate aforesaid from his, her or their decease or respective deceases, shall be payable within the said period of One Year to his, her or their respective executors or administrators.

57. All charges to be valid.

And be it Enacted, That every such grant, mortgage, lease or demise, and every such Charge as aforesaid to be made of or upon any of the said lands and estates under or by virtue of this Act, shall be good, valid and effectual in the law, notwithstanding the want of any title in the person or persons making the same, and notwithstanding any will, settlement, trust, use, remainder, limitation or other incumbrance of or concerning the said lands and estates or any part or parts thereof then in being or taking effect, to the contrary.

58. Power of leasing Lands improved.

And be it Enacted, That it shall be lawful for any tenant or tenants in tail or for life, or for any other partial interest, to lease the lands so improved for such term or terms of years at such yearly rent or rents, and under and subject to such covenants and agreements as shall be fixed on and approved of by the Commissioner or Commissioners acting under this Act at the time of making the said Award; and in case any of the lands so improved shall be in lease, the said Commissioner or Commissioners shall determine the amount of increased rent, which the lessee should pay in consequence of the said improvement.

59. Power to Commissioners to borrow Money to be afterwards repaid with interest.

And be it Enacted, That it shall be lawful for the said Commissioner or Commissioners for the purposes aforesaid to borrow and take up at interest of any person or persons, party or parties willing to advance and lend the same, such sum or sums of Money as shall from time to time be necessary for defraying the expenses of executing the works and purposes proposed to be made and effected until the same shall be raised by the ways and means hereinbefore directed; which sum or sums of Money so to be borrowed shall be repaid with lawful interest to the person or persons, party or parties advancing the same out of the first monies to be raised under or by virtue of the award of the said Commissioner or Commissioners.

60. Power to Commissioners and Trustees to apply to the Commissioners appointed under 1 & 2 Will. 4. c. 33, for Loan.

And be it Enacted, That it shall and may be lawful for any Commissioner or Commissioners appointed for the purposes aforesaid, and the Trustee or Trustees to be appointed as hereinafter mentioned, to apply to the Commissioners appointed for carrying into execution the purposes of an Act passed in the first and second years of the reign of his late Majesty King William the Fourth, intituled, "An Act for the Extension and Promotion of Public Works in *Ireland*," for the Loan at interest of any sum or sums of money for defraying the expenses of any such improvements so proposed to be or in course of being made; and for keeping up and repairing the works effected under this Act; and in every such case it shall be lawful for the said Commissioner or Commissioners appointed for effecting such improvements, and the said Trustee or Trustees, to assign, transfer and assure unto the Commissioners appointed for carrying the purposes of the said Act into execution the sums of money by the award of the Commissioner or Commissioners for effecting such improvements charged or to be charged upon and made payable out of the lands so improved, and the estates of which such lands form part respectively as aforesaid; and the sums which shall be so assigned, transferred or assured, or an equal portion thereof, shall from and after the execution of the award be and become payable to the said Commissioners for carrying the purposes of the said Act into execution for and in satisfaction of the Loan so made by them and the interest thereof.

61.
Power to levy Tolls on Vessels using Rivers, &c., rendered navigable under this Act.

And be it Enacted, That if any Rivers or Lakes shall be rendered navigable under the provisions of this Act, then the said Commissioner or Commissioners shall, by his or their award, fix the Tolls to be paid by any ships, boats, barges or vessels using or navigating such Rivers or Lakes; and it shall be lawful for the Commissioners for the time being, acting under the Act passed in the first and second years of the reign of his late Majesty, intituled, " An Act for the Extension and Promotion of Public Works in *Ireland*," to alter and change such Tolls, or any of them, from time to time, as they shall think fit; and the Tolls for the time being payable under this clause, shall and may be from time to time levied by the trustees to be appointed as hereinafter mentioned, and shall be applied by them in the manner hereinafter provided.

62.
Power to let the Tolls.

And be it Enacted, That it shall be lawful for the said Commissioner or Commissioners until he or they shall have made his award, and afterwards for the trustees to be appointed as hereinafter mentioned, if he or they shall think fit, by public bidding from time to time to let, and from time to time to relet, all or any of the Tolls payable under the provisions of this Act, for any term not exceeding Ten nor less than Five years, on such conditions, and with such security for payment of the rent reserved in such lease as the said Commissioner or Commissioners, or the said trustees shall think fit, and the said Commissioners of Public Works shall from time to time approve: Provided always, That every such lease shall contain a covenant on the part of the lessee or lessees, to keep such works in repair (so far as the ordinary wear and tear of such work may render necessary), and shall also contain a power of re-entry on non-payment of such rent, or non-performance of such covenant for repairs, within Three calendar months after the same shall become due, or after any breach of any such covenant, and a power to such Commissioner or Commissioners, or the said trustees, at any time to put an end thereto, on giving Three calendar months' notice to the lessees or lessee thereof, of an intention so to do: Provided always, That nothing in this Act contained shall be construed to extend to or affect any tolls already raisable or payable by virtue of the provisions of any Act passed before the passing of this Act.

63.
Application of Tolls.

And be it Enacted, That the Tolls payable under the provisions of the Act, or the rent payable under any lease thereof, shall be applied in manner following; (that is to say) first in repairing the cuts, canals or other works in respect of which such Tolls or rents shall be payable, and other expenses attendant thereon, and the surplus of such Tolls or rents shall be invested in Public or Government securities, and suffered to accumulate so as to form a fund for the future improvement of such works; and such fund shall be applied for such purpose, at such time and in such manner as the said Commissioner or Commissioners or trustees shall from time to time direct, and the said Commissioners of Public Works shall from time to time appoint.

64.
Power of enforcing Payment of Tolls.

And be it Enacted, That it shall be lawful for the said Commissioner or Commissioners, or the said trustees, in cases in which such Tolls shall not be leased or let, and for the lessee or lessees of such Tolls, if leased or let, from time to time to appoint sufficient collectors and officers or agents for the purpose of receiving the Tolls payable under this Act; and in case any person liable to pay such Tolls shall refuse or neglect to pay the same, it shall be lawful for the said Commissioner or Commissioners or trustees, or for the lessees or lessee of the said Tolls, or his or their officer or agent, or other person to whom such Tolls ought to have been paid, to seize the vessel, goods, articles and things in respect of which such tolls ought to have been paid, wherever the same may be found, and to detain the same until such Tolls, together with the reasonable cost and expenses of such seizure and detention, shall be paid; and if such vessel, goods, articles and things shall not be redeemed within Twenty-one days after the seizure thereof, the same shall be appraised and sold, and, after deducting the costs of such seizure, detention and sale, all such sums as shall be due in respect of such Toll shall be satisfied thereout, and the overplus paid to the owner, in like manner as the law directs in cases of distress for rent in arrear

65.
Bye-laws may be made for payment of Tolls.

And be it Enacted, That it shall and may be lawful for the Commissioner or Commissioners, or the trustees to be appointed as hereinafter mentioned, to make such Bye-laws, rules and regulations for the Payment of the said Rates or Tolls, such Bye-laws, rules and regulations not being contrary to the laws or statutes of the realm, as the Directors of General Inland Navigation in *Ireland* were enabled to make and establish under any Act or Acts for promoting Inland Navigation, or as the said Commissioners of Public Works are now enabled to do under the provisions of the said Act of the first and second years of his late Majesty's reign, vesting the powers and authorities theretofore enjoyed by the said Directors General in the said Commissioners of Public Works; and any person or persons guilty of any breach of, or offending against any such Bye-laws, rules or regulations, shall and may be proceeded against, and shall incur a like penalty or forfeiture, to be levied and enforced in like manner as in the case of any person offending against the bye-laws, rules or regulations at any time made by the said Directors General, or by the said Commissioners in respect of any canal or navigation.

66.
Grants may be made by Commissioners of Public

And be it Enacted, That it shall be lawful for the said Commissioners of Public Works, with the consent and approval of the Com-

Works, for certain purposes.

missioners of the Treasury, to make Grants in aid of the making of any cuts, canals or other works which may be undertaken by virtue of this Act, for connecting one or more river or rivers, lake or lakes, with any other river or rivers, lake or lakes, or with the sea, and in aid of the rendering any river or rivers, lake or lakes navigable, and that on the same terms and subject to the like conditions and regulations as to the amount of such grants and all other particulars as by the said Act passed in the first and second years of his late Majesty's reign is provided in respect of grants in aid of the construction and making of roads and bridges, and the erection of small harbours, piers and quays on the sea coast of *Ireland*, and with the like powers and authorities in relation thereto, save as such conditions and regulations, powers and authorities were altered by the Act passed in the sixth and seventh years of his late Majesty's reign, for amending the said Act passed in the first and second years of his late Majesty's reign; and so far as the same have been so altered according to the provisions contained in the said lastly-mentioned Acts.

67.

After receipt of Award and of report of completion of the works, Chief or Under Secretary of Lord Lieutenant to summon a Meeting of Owners of lands benefited, to elect Trustees.

And be it Enacted, That so soon as it may be convenient after the receipt of the said Award and the Report of the engineer or surveyor, certifying the completion of the works authorized to be made by the said Commissioner or Commissioners under the said Commission, the Chief or Under Secretary to the Lord Lieutenant or other Chief Governor or Governors of *Ireland* shall summon a Meeting of all the persons who shall appear by the Award aforesaid to be Owners of any Lands, grounds or premises benefited or improved by such works; and notice of such Meeting shall be given in some one newspaper usually circulated within the county or counties at least Thirty Days before the day appointed for any meeting; and the party seised of the first vested estate of freehold in any lands, grounds or premises shall for the purpose of such Meeting be deemed the owner thereof; and in default of the attendance of such person, then the actual occupier thereof shall be deemed and taken to be such owner, and vote thereat accordingly, and no two persons shall have a right to vote in respect of the same lands, grounds or premises; and the persons assembled at such Meeting shall in the first place elect a Chairman to preside at such Meeting, and shall next proceed to the election of Trustees for preserving, maintaining, repairing and keeping in repair the works completed and executed by the said Commissioners; and such Trustees shall be not fewer than Five or more than Twelve persons, and shall be either actually land-owners or persons entitled so to be deemed under the provisions aforesaid; and all persons who shall have been assessed for the expense of executing such works in the sum of Ten Pounds shall have one vote at such Meeting, and all persons assessed in the sum of Twenty Pounds shall have two votes, and so on in the proportion of one vote for every complete sum of Twenty Pounds in which such land-owners may have been assessed, but so that no land-owner shall have more than Six votes in the whole, whatever be the sum in which he may have been assessed; and in case of an equality of votes at such Meeting, the Chairman of such Meeting shall, besides any vote or votes to which he may be entitled as an assessed land-owner, also have a casting and decisive vote; and such Chairman shall certify under his hand and seal the names of the persons so elected such Trustees as aforesaid, and deliver such certificate to the Clerk of the Peace of any county, county of a city or county of a town within which any of the lands comprised within the limits of the jurisdiction of such Trustees may be, to be by him preserved among the records of the county; and such certificate shall be to all intents and purposes conclusive of the due election of the persons therein named.

68.
Trustees to remain in office for Three Years and to summon Meeting of Land-owners to elect new Trustees every Three Years.

And be it Enacted, That the said Trustees first appointed as aforesaid shall continue and remain in office and act as such for the term of Three Years from the date of their election, and no longer; and at least Ten Days before the expiration of such term of Three Years the Trustees for the time being shall summon by public advertisement, and otherwise as they shall think fit, a Meeting of all the Owners for the time being of all lands, grounds or premises benefited or improved by the works executed under the Commission aforesaid; and the same regulations with respect to the right of persons to vote, and of the manner of voting thereat, shall apply and be observed at such Meeting as at the first Meeting for the election of Trustees; and at such Meeting a like number of persons as were chosen at such first Meeting shall be chosen to act as Trustees for the next ensuing Three Years, in the room of such outgoing Trustees, and with the like powers and authorities; and the election of such Trustees shall be certified in like manner as the election of the first Trustees elected under this Act; and such certificate shall be lodged in like manner, and be alike conclusive of the election therein certified to have been made, and so on for ever, a new election of Trustees being made and certified in like manner and form every Three Years: Provided always, That any outgoing Trustee may be re-elected, and shall in such case continue and remain in office until the next triennial election, any thing herein contained to the contrary notwithstanding: And provided further, That if any Trustee shall before the expiration of the Three Years for which he may have been elected to act as a Trustee, die or resign, or become disqualified to act as such, it shall and may be lawful for the remaining Trustees to elect some other Land-owner qualified as aforesaid to be a Trustee in the place of the Trustee so dying, resigning or becoming disqualified as aforesaid; and such Trustee so elected to fill such vacancy, shall remain and continue in office as such Trustee so long only as the Trustee in whose place or stead he may be elected would have been entitled to have continued and remained in office.

Trustee dying, resigning, &c., a new one to be elected by Trustees out of the Land-owners.

69.
Notice of Meetings of Trustees to be given by

And be it Enacted, That Notice of all Meetings to be held by the Trustees in pursuance of this Act (except where it shall be herein otherwise public Advertisement or by personal service.

Proceedings at Meetings of Trustees.

Revocation of orders.

otherwise directed) shall be inserted in some One Newspaper usually circulated within the district of the jurisdiction of such Trustees, at least Thirty Days before the day appointed for any meeting; or such Notice thereof shall be delivered to the said Trustees personally, or left at their usual place or places of abode, or given and published in such other manner as the said Trustees at any previous meeting shall think fit to order and direct; and it shall be lawful for such Trustees to adjourn such Meetings from time to time as may be convenient; and all Orders and Determinations of the Trustees in execution of this Act shall be made at meetings to be held pursuant to the provisions hereof, and not otherwise; and that no order or determination shall be made unless the major part of the Trustees present shall concur therein; and that all acts, orders and proceedings in execution of this Act, and all the powers and authorities vested in the said Trustees generally, shall and may be had, made, done and exercised by the major part of the Trustees who shall be present at the respective meetings to be held by virtue of this Act, the whole number present not being less than Five; and that all acts, orders or proceedings had, made or done by or before such Five Trustees shall have the same force and effect and be binding and conclusive on all persons and to all intents and purposes whatsoever as fully and effectually as if the same were had, made, done or executed by or before all the said Trustees; and that a chairman shall and may in the first place be appointed at every meeting to be held by virtue and for the purposes of this Act, who in case of an equal number of votes (including the chairman's vote) shall have the casting or decisive vote; and that no Order or Determination at any meeting of the said Trustees once made, agreed upon or entered into, shall be revoked or altered at any subsequent meeting, unless notice of the intention to make such Revocation or alteration shall have been given by Five or more Trustees, by writing under their hands, to the clerk to the said Trustees at a previous meeting, and entered in the book of proceedings of such meeting, and expressed in the notice convening such subsequent meeting, nor unless such revocation or alteration shall be agreed to be made by a greater number of Trustees than concurred in the making of any such order and determination.

70.

Trustees to order books of accounts be kept.

And be it Enacted, That the said Trustees shall and they are hereby required to order and direct a Book or Books to be provided and kept by their clerk or clerks for the time being, in which book or books shall be entered true and regular Accounts of all sums of money received, paid, laid out and expended for and on account of any of the purposes of this Act, and of the several articles, matters and things for which any sums of money shall have been disbursed, laid out and paid, which book or books shall at all reasonable times be open to the inspection of the said Trustees; and the Trustees shall from time to time cause such Accounts to be duly made up and balanced on the appointment of trustees to succeed them pursuant to the provisions of this Act; and within Seven Days next after such appointment, deliver such accounts, and make payment of all monies arising by virtue of this Act and then in their hands, to the succeeding trustees, to be by them applied to the purposes of this Act.

71.
Trustees may enter into Contracts.

And be it Enacted, That it shall and may be lawful to and for the said Trustees, by advertisement to be inserted in some newspaper printed or generally circulated within the district of the jurisdiction, to appoint a time and place to receive proposals from, and to enter into, make and execute Contracts for any term not exceeding Three years, with any engineer, engineers or workmen or other person or persons not being a trustee, or in any manner otherwise employed by the said Trustees for maintaining, preserving and repairing any of the works which they may be hereby required or authorized to maintain, preserve and repair, and for providing proper engines, utensils and materials for that purpose, and all other matters, articles and things concerning the same; and all such contracts so to be made shall be entered in a book to be kept for that purpose, and signed by the party or parties making such contract, and by the said Trustees, and shall be good, valid and effectual in law without any more formal or further deed or instrument whatsoever.

72.
Works to be sustained by the Trustees.

And be it Enacted, That it shall be lawful for the said Trustees for the time being, and they are hereby authorized and required to perform and execute any Works which shall or may be proper or necessary for maintaining, cleansing and keeping in repair any watercourses, sluices, drains, ditches, cuts, tunnels, culverts, banks, bridges, outlets, weirs, engines, embankments, fences or other works, which shall have been made for improving any lands as aforesaid, or the improvement of such navigation as aforesaid, or by means whereof any such lands and navigation shall be kept in proper condition, when and as often as any such works shall from time to time be necessary.

73.
Power for Surveyors of Counties to inspect Works and direct Repairs; and if Trustees neglect to repair, the Board of Works may do so.

And be it Enacted, That it shall be lawful for the Surveyors for the time being of the County in which any Works or Improvements shall have been made or effected under this Act, and he is hereby authorized and required from time to time, but at least once in each year, to inspect the state and condition of such Works and Improvements, and the necessary Repairs to be made or done thereto, and to report thereon to the said Trustees, in order that they make good the Repairs specified in such report, and if they the said Trustees shall neglect so to do for the space of   calendar Months next after the making of such report, then it shall be lawful for the said Commissioners of Public Works, out of any Funds then in their hands for the purposes of Loans, to cause the said Repairs, or such of them as they shall deem necessary, to be done; and the said Trustees shall reimburse the said Commissioners the amount expended by them on such Repairs, by levying the same under the powers hereinafter contained; and if the said Trustes shall neglect so to reimburse the said Commissioners within Six calendar Months after they shall have expended any money on the said Repairs, then the said Commissioners shall have the same powers of levying such money as are hereby given to the said Trustees.

74.
Expenses to become payable to Trustees.

And be it Enacted, That when and so often as any such works shall from time to time have been performed and executed, the proportions or contributions towards the Costs and Expenses of the same, as settled by any such award as hereinbefore mentioned, shall become payable to the said Trustees as rates and taxes, by the occupiers of the said lands and estates; and such proportions or contributions shall become vested in and be recoverable by such Trustees, but without prejudice to the powers hereinbefore given to the Commissioner or Commissioners to levy any such proportions or contributions, if he or they shall think fit to exercise such powers.

75.
Power of Distress in case of Non-payment.

And be it Enacted, That if any person or persons shall refuse, omit or neglect to pay all or any part of the proportions or contributions which he, she or they is and are hereby made liable to pay as last aforesaid, and discharge for the space of Two calendar Months, then and in every such case it shall and may be lawful to and for the said Trustees or any person appointed by them to enter into and upon all or any part of the lands and estates hereby charged as aforesaid, for which any such contribution shall be due and owing, and all messuages and tenements thereupon standing and thereunto belonging, with the appurtenances, and to levy the money due and owing or payable by such person or persons so refusing, omitting or neglecting to pay the same by Distress of the cattle, corn, hay, goods, chattels and effects which shall or may be found thereon, or of a sufficient part thereof, and the cattle, corn, hay, goods, chattels and effects which shall be so distrained to impound and keep on the premises, or to take, lead, drive, carry away and keep for the space of Five Days, at the costs and charges of the person or persons liable to pay the said contributions, leaving at such messuage or tenement, lands, grounds or premises, or delivering to the occupiers or one of the occupiers of the same, notice in writing of such Distress being made, and of the cause thereof, and of the place or places where such Distress is to be or is led, taken, driven away and impounded and kept; and in case the sum or sums of money for which any such Distress shall be made, and all costs, charges and expenses attending such Distress, shall not be paid and discharged to the person making such Distress, within Five Days next after the making of such Distress, and notice thereof given as aforesaid, then and in every such case the person or persons so making such Distress shall or may, with the Sheriff of the county or his deputy, or the constable of the parish where such Distress shall be made, who is and are hereby requested, upon being thereunto required, to assist therein, cause the cattle, corn, hay, goods, chattels and effects so distrained to be appraised by Two or more indifferent persons to be sworn by such Sheriff, Under Sheriff or constable (who is and are hereby empowered and required to administer the proper and necessary oath or oaths); and such Two persons are hereby required to appraise the same according to the best of their judgment; and after such appraisement it shall and may be lawful to and for the person or persons making such Distress, to sell or cause to be sold the cattle, corn, hay, goods, chattels and effects so distrained, for the best price that can be reasonably had or gotten for the same, for and towards satisfaction of the monies for which such Distress and sale shall be so made, and the costs, charges and expenses of taking, keeping, appraising and selling the same, rendering the overplus of the monies arising from any such sale, (if any) on demand, to the person or persons entitled thereto.

76.
Lands to remain liable if no Distress found.

And be it Enacted, That when and so often as it shall happen that the Lands and Estates for or in respect of which any such contribution as aforesaid or any part thereof shall be due and unpaid, shall be unoccupied, or that no sufficient Distress can be found thereon for levying the same, then and in every such case such Lands shall be and remain a security for the payment of all such contributions so due and unpaid; and all cattle, corn, hay, goods, chattels and effects which shall at any time thereafter be found on such Lands and Estates shall and may be distrained, impounded, kept, appraised and sold in manner aforesaid, until all the contributions due and owing for or in respect of such Lands, and all costs, charges and expenses incident to every such distress and sale, shall be fully paid, satisfied and discharged.

77.
Distress not unlawful for want of form.

And be it Enacted, That where any Distress shall be made by virtue of this Act, the Distress itself shall not be deemed unlawful, nor the party or parties taking the same be deemed a trespasser or trespassers on account of any want of form in the warrant or warrants of Distress or other proceedings relating thereto, but such warrant or warrants shall be good, valid and effectual to all intents and purposes whatsoever, if the parties issuing the same had power to issue a warrant or warrants for any part of the sum or sums stated therein; nor shall the party or parties distraining be deemed a trespasser or trespassers ab initio on account of any irregularity which shall be afterwards committed by the party or parties distraining, but the person or persons aggrieved by such irregularity shall and may recover satisfaction for the special damage in an action on the case.

78.
No Action to be brought against persons acting in

And be it Enacted, That no Action, Suit or Information shall be brought, commenced or prosecuted by any person or persons for any execution of this Act, until after Notice has been given specifying the cause of Action.

thing done or to be done in pursuance of this Act, or in execution of the powers or authorities herein contained, unless Notice in writing of such action, suit or information, specifying the ground or cause thereof, and signed by the attorney of the plaintiff or plaintiffs, shall be given to the Commissioner or Commissioners, person or persons, against whom proceedings are intended to be commenced at least Twenty-one Days before such action, suit or information shall be commenced, nor unless such action, suit or information shall be brought or commenced within Six calendar Months next after the fact committed, or in case there shall be a continuance of damages, then within Six calendar Months next after the doing or committing such damage shall have ceased, and not afterward, and shall be laid or brought in the county where the matter in dispute shall arise, and not elsewhere; and the defendant or defendants may at his or their election plead specially or plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by authority of this Act, and it shall appear to be so done; or if any action, suit or information shall be brought or commenced otherwise than is hereinbefore directed, then and in such case the Jury shall find for the defendant or defendants, and upon such verdict, or if the plaintiff or plaintiffs shall be nonsuited or suffer a discontinuance of his, her or their action or actions, suits or informations after the defendant or defendants shall have appeared thereto, or if any Verdict shall pass against the Plaintiff or Plaintiffs, or if upon demurrer or otherwise judgment shall be given against the Plaintiff or Plaintiffs, the Defendant or Defendants shall have treble Costs, and shall have such remedy for the recovery of the same as any other Defendant or Defendants hath or have in other cases at law.

If Verdict for Defendants, or Plaintiffs non-suited or discontinue action, Defendants to have treble Costs.

79.

No Action to be brought after tender of sufficient amends.

And be it Enacted, That no plaintiff or plaintiffs shall recover in any Action to be brought against any Commissioner or Commissioners, person or persons, for any thing done by him or them respectively in execution of the powers vested in them under or by virtue of this Act, as the case may be, if Tender of sufficient Amends shall be made by or on behalf of the said Commissioner or Commissioners, person or persons before such action brought; and in case no Tender shall have been made, it shall be lawful for the defendant or defendants in any action, by leave of the court in which such action shall depend, at any time before issue joined, to pay into court such sum of Money as he or they shall think fit, whereupon such proceedings, order and adjudication shall be had and given in and by such court as in actions where the defendant is allowed to pay money into court.

If no tender made, money may be paid into Court by leave before issue joined.

80.

Penalty on Witnesses refusing to appear or refusing to give evidence.

And be it Enacted, That if any person or persons who shall be summoned as a Witness or Witnesses to attend and give Evidence before any Justice or Justices of the Peace, touching any matter contained in any information or complaint, for any offence committed against this Act, either on behalf of the prosecutor or on behalf of the person or persons accused, shall refuse or neglect to appear at the time and place to be for that purpose appointed, having been paid or tendered a reasonable sum for his, her or their loss of time, costs and charges, without a reasonable excuse for his, her or their refusal or neglect, or appearing shall refuse to be examined on oath (or in case of a Quaker or Quakers on solemn affirmation) and to give Evidence before any Justice or Justices, then and in either of the said cases every such person shall forfeit and pay for every such offence any sum not exceeding Five Pounds, to be recovered in like manner as any Penalty imposed by this Act may be recovered.

81.
Recovery of Penalties and Forfeitures.

And be it Enacted, That all Penalties, Forfeitures and Fines hereby inflicted or authorized to be imposed, and the manner of levying and Recovery whereof is not herein otherwise directed, shall, upon proof of the offences respectively before any one of His Majesty's Justices of the Peace for the county within which such offence shall have been committed, either by the confession of the party or parties offending, or by the oath of one or more credible witness or witnesses, (which oath such Justice is hereby empowered to administer) be levied by distress and sale of the goods and chattels of the party or parties offending, by warrant under the hand and seal of such Justice, which warrant such Justice is hereby empowered to grant for such purpose, and the overplus (if any) after such penalties, forfeitures and fines and charges of such distress and sale are recovered and deducted, shall be returned upon demand unto the owner or owners of such goods and chattels, and the penalties, forfeitures and fines shall be from time to time paid to the said Trustees for the purposes aforesaid, and applied by him or them to the purposes for effecting which he or they shall be appointed; and in case sufficient distress shall not be found, and such penalties, forfeitures and fines shall not be forthwith paid upon conviction, then it shall be lawful for such Justice to order the offender or offenders so convicted to be detained and kept in safe custody until return can be conveniently made to such warrant of distress, unless the offender or offenders shall give sufficient security to the satisfaction of such Justice for his, her or their appearance before such Justice on such day or days as shall be appointed for the return of such warrant of distress, such day or days not being more than Seven Days from the time of taking any such security, and which security the said Justice is hereby empowered to take by way of recognizance or otherwise; but if upon return of such warrant it shall appear that no sufficient distress can be had whereupon to levy the said penalty or penalties and such costs as aforesaid, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of the said Justice, either by the confession of the offender or offenders or otherwise, that he, she or they hath or have not sufficient goods and chattels whereupon such penalties, forfeitures and fines can be levied, if a warrant of distress were issued, such Justice shall not be required to issue such warrant of distress, and thereupon it shall be lawful for any such Justice of the Peace as aforesaid, and he is hereby authorized and required by warrant or warrants under his hand and seal, to cause such offender or offenders to be committed to the common gaol or house of correction of such county, there to remain without bail or mainprize for any time not exceeding Three calendar Months, unless such penalties, forfeitures or fines, and all reasonable charges, shall be sooner paid or satisfied.

82.
Lord Lieutenant may issue Commission of Inquiry.

And be it Enacted, That it shall be lawful for the Lord Lieutenant, or other Chief Governor or Governors of *Ireland*, by warrant under his or their hand or hands, to appoint Commissioners to inquire within any district, the limits whereof shall be specified in such warrant, whether any works ought to be executed within such district for connecting any rivers or lakes with each other, or with the sea, and for rendering the same navigable, or for cleansing, or scouring any stream or watercourse therein, or for draining such district, or any part thereof, or preserving the lands thereof from irruption of the sea, or other inundation, or for effecting any other of the improvements hereinbefore mentioned, and the probable expense thereof respectively, and whether it will be necessary to take any and what lands for the said purposes, or any of them, and the value of such lands respectively, and whether any property is likely to be damaged thereby, and to what extent; and the said Commissioners shall inspect, or cause inspection to be made, the district mentioned in such warrant, and shall make all such inquiries as shall be necessary for enabling them to report as aforesaid, and shall have full power to enter upon any lands or other hereditaments, and to summon witnesses, and take their evidence on oath or affirmation, and to fine any persons refusing to attend or be examined, and shall have all such other powers as may be necessary for enabling them the said Commissioners to make a Report, and they shall prepare the Draft of a Report, wherein shall be stated whether any such works as aforesaid are required within the said district, and if any be required, what may be the most effectual and judicious mode of carrying the same into execution, and what expense is likely to be incurred thereby, and any other particulars which the said Commissioners may deem it necessary to state in such Draft Report for elucidating the same, and cause copies of the said Draft to be made and deposited in such and so many convenient places within the district as they shall think proper, then to remain open to public inspection at all reasonable times for Three successive weeks, and shall cause notices of the place or places where the same may be deposited to be posted in the usual places for posting the Grand Jury notices in such district, and shall also cause a like notice to be inserted once in each week for Three successive weeks in the *Dublin* Gazette, and shall finally settle and sign their Report in the

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the premises, and transmit the same to the Lord Lieutenant, or other Chief Governor or Governors of *Ireland*, who shall have power to issue any Commission for effecting the improvements suggested in such Report, or any of them, in the same and like manner in all respects as is hereinbefore provided respecting any Commission to be issued in case the proprietors of Two-thirds or more in extent or value of any such lands as hereinbefore mentioned shall consent in writing to contribute towards the necessary expenses of improving the same, or of effecting all or any other of the purposes of this Act; and all the powers, provisions and other clauses in this Act contained in reference to any Commission to be issued as last aforesaid, shall, so far as the same may be applicable, apply and extend to any Commission to be issued on any such Report of such lastly mentioned Commissioners as hereinbefore mentioned.

83.
Expenses of such Inquiry.

And be it Enacted, That the Expenses of the issuing any such Commission to such lastly-mentioned Commissioners as aforesaid, and of executing the same, and all other Expenses relating thereto, shall be paid by the Commissioners of Public Works out of the monies or funds vested in them for the purposes of loans, with the consent of the Lords of the Treasury; but if all or any of the improvements suggested by their Report shall afterwards be carried into effect, then such Expenses, or so much thereof as the Commissioner or Commissioners to be appointed for carrying such improvements into effect shall deem a fair and just proportion in reference to the same improvements, shall be considered part of the expenses incident to such improvements, and shall be imposed by his or their award upon the owners of the lands and estates benefited thereby as and in the manner hereinbefore provided in relation to such last-mentioned expenses, and be paid accordingly; and the last-named Commissioner and Commissioners shall, out of the first monies received by him or them under his or their award, repay to the Commissioners of Public Works, the expenses of issuing their said Commission and of executing the same, and all other expenses relating thereto, or such proportion thereof as aforesaid.

84.
Persons suggesting Works not approved of by Commissioners of Public Works, to pay the expenses.

And be it Enacted, That if any persons shall present a petition or memorial to the Lord Lieutenant or other Chief Governor or Governors of *Ireland*, praying that a warrant may issue to Commissioners, directing an inquiry as to the expediency of any Works suggested in such petition or memorial, and a warrant shall issue accordingly, and such Commissioners shall report that such Works ought not to be done, then the persons by whom such petition or memorial was presented, shall pay the expenses of issuing the warrant to such Commissioners and of executing the same, and all other expenses relating thereto, in the manner hereinafter provided; and for that purpose such Commissioners shall, by writing under their hands, certify to the Lord Lieutenant or other Chief Governor or Governors of *Ireland*, the amount of the said expenses; and the Lord Lieutenant or other Chief Governor or Governors of *Ireland* shall, by warrant under the hand of the Chief Secretary of *Ireland* for the time being, direct the Grand Jury or Grand Juries of the county or counties wherein the persons presenting the said petition or memorial reside, to divide the said expenses among such persons in proportion to the amount which they respectively contribute towards the county cess, and to present their respective proportions of such expenses on the lands owned or occupied by them respectively; and such Grand Jury or Grand Juries shall divide such expenses and make such presentments accordingly; and the amount which shall be allotted to each person as his proportion of the same expenses shall be collected and levied in the same manner and by the same means as if the same was his proportion of the county cess; and the amount so collected and levied shall be paid by the Treasurer of the county or counties wherein the same shall be collected and levied, to the Secretary of the said Commissioners of Public Works, or such other person as shall be named for that purpose by the said Secretary of the Lord Lieutenant, whose receipt shall be an effectual discharge for the same.

85.
Definition of terms in this Act.

And be it Enacted, That in the construction of this Act, the word person shall extend to all bodies politic, corporate and collegiate, and to any number of persons associated together as a company or partnership; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things; and every word importing the masculine gender only shall extend and be applied to a female as well as a male; and the word proprietor shall extend, not only to tenants in fee simple, but tenants in tail, tenants for life or tenants for years determinable on a life, but not to any lessee, save a lessee for lives or years renewable for ever.

86.
Act may be altered.

And be it Enacted, That this Act may be amended, altered or repealed by any Act or Acts during the present Session of Parliament.

067

Waste Lands (Ireland).

A

BILL

[AS AMENDED ON RE-COMMITMENT]

To promote the Reclamation and Improvement
of Uncultivated Lands in *Ireland.*

(Prepared and brought in by
Mr. Lynch and Mr. Morgan John O'Connell.)

Ordered, by The House of Commons, *to be Printed,*
23 *June* 1837.

417.

21 *March* 1837.—7 WILL. IV.

A

BILL,

(FROM THE LORDS),

INTITULED

AN ACT for the Amendment of the Laws with respect to Wills.

[Note.—*The Figures in the Margin denote the Number of Presses in the Ingrossment.*]

1. Meaning of the Words in the Act.

1 **Be it Enacted,** by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the words and expressions hereinafter mentioned, which in their ordinary signification have a more confined or a different meaning, shall in this Act, except where the nature of the provision or the context of the Act shall exclude such construction, be interpreted as follows; (that is to say) the word "Will" shall extend to a Testament, and to a Codicil, and to an appointment by Will or by writing in the nature of a Will in exercise of a power, and also to a disposition by Will and Testament or Devise of the custody and tuition of any child, by virtue of an Act passed in the twelfth year of the reign of King CHARLES the Second, intituled, "An Act for taking away the Court of Wards and Liveries, and Tenures *in capite* and by Knights' Service and
2 Purveyance, and for settling a Revenue upon His Majesty in lieu thereof," or by virtue of an Act passed in the Parliament of *Ireland* in the fourteenth and fifteenth years of the reign of King CHARLES the Second, intituled, "An Act for taking away the Court of Wards and Liveries, and Tenures *in capite* and by Knights' Service," and to any other testamentary disposition; and the words "Real Estate" shall extend to manors, advowsons, messuages, lands, tithes, rents and

"Will;"

12 Car. 2. c. 24.

14 & 15 Car. 2. (I.)

"Real Estate:"

“ Personal Estate:”

Number:

Gender.

hereditaments, whether freehold, customary freehold, tenant right, customary or copyhold, or of any other tenure, and whether corporeal, incorporeal or personal, and to any undivided share thereof, and to any estate, right or interest (other than a chattel interest) therein; and the words “ Personal Estate” shall extend to leasehold estates and other chattels real, and also to monies, shares of Government and other funds, securities for money (not being real estates), debts, choses in action, rights, credits, goods, and all other property whatsoever which by law devolves upon the executor or administrator, and to any share or interest therein; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

2.
Repeal of the Statutes of Wills, 32 H. 8. c. 1. and 34 & 35 H. 8. c. 5.

10 Car. 1. Sess. 2. . 2. (I.)

Sec. 5, 6, 12, 19, 20, 21 & 22, of the Statute of Frauds, 29 Car. 2. c. 3; 7 W. 3. c. 12. (I.)

Sec. 14, of 4 & 5 Anne, c. 16.

6 Anne, c. 10. (I.)

Sec. 9. of 14 G. 2. c. 20.

And be it further Enacted, That an Act passed in the thirty-second 3
year of the reign of King Henry the Eighth, intituled, “ The Act of Wills, Wards and Primer Seisins, whereby a Man may devise two parts of his Land;” and also an Act passed in the thirty-fourth and thirty-fifth years of the reign of the said King Henry the Eighth, intituled, “ The Bill concerning the Explanation of Wills;” and also an Act passed in the Parliament of *Ireland*, in the tenth year of the reign of King Charles the First, intituled, “ An Act how Lands, Tenements, &c., may be disposed by Will or otherwise, and concerning Wards and Primer Seisins;” and also so much of an Act passed in the twenty-ninth year of the reign of King Charles the Second, intituled, “ An Act for Prevention of Frauds and Perjuries,” and of an Act passed in the Parliament of *Ireland*, in the seventh year of the reign of King William the Third, intituled, “ An Act for Prevention of Frauds and Perjuries,” as relates to devises or bequests of lands or tenements, or to the revocation or alteration of any devise in writing of any lands, tenements or hereditaments, or any clause thereof, or to the devise of any estate *pur autre vie*, or to any such estate being assets, or to Nuncupative Wills, or to the repeal,
altering or changing of any Will in writing concerning any goods or 4
chattels or personal estate, or any clause, devise or bequest therein; and also so much of an Act passed in the fourth and fifth years of the reign of Queen Anne, intituled, “ An Act for the Amendment of the Law and the better Advancement of Justice,” and of an Act passed in the Parliament of *Ireland*, in the sixth year of the reign of Queen Anne, intituled, “ An Act for the Amendment of the Law and the better Advancement of Justice,” as relates to witnesses to Nuncupative Wills; and also so much of an Act passed in the fourteenth year of the reign of King George the Second, intituled, “ An Act to amend the Law concerning Common Recoveries, and to explain and amend an Act made in the twenty-ninth year of the

reign

25 G. 2. c. 6. (except as to Colonies.)

25 G. 2. c. 11. (I.)

55 G. 3. c. 192.

reign of King Charles the Second, intituled, "An Act for Pre-
vention of Frauds and Perjuries," as relates to estates *pur autre vie*;
and also an Act passed in the twenty-fifth year of the reign of King
George the Second, intituled, "An Act for avoiding and putting an
end to certain Doubts and Questions relating to the Attestation of
Wills and Codicils concerning Real Estates in that Part of *Great
Britain* called *England*, and in His Majesty's Colonies and Planta-
5 tions in *America*," except so far as relates to His Majesty's Colonies
and Plantations in *America*; and also an Act passed in the Parliament
of *Ireland*, in the same twenty-fifth year of the reign of King George
the Second, intituled, "An Act for the avoiding and putting an end
to certain Doubts and Questions relating to the Attestations of Wills
and Codicils concerning real Estates;" and also an Act passed in
the fifty-fifth year of the reign of King George the Third, intituled,
"An Act to remove certain Difficulties in the Disposition of Copy-
hold Estates by Will," shall be and the same are hereby repealed,
except so far as the same Acts, or any of them respectively, relate
to any Wills or Estates *pur autre vie*, to which this Act does not
extend.

3.
All Property may be disposed of by Will, (Statute of Wills, 32 H. 8. c. 1. s. 1.),

comprising Customary Freeholds and Copyholds without Surrender and before Admittance, and also such of them as cannot now be devised;

Estates pur autre vie;

contingent Interests;

And be it further Enacted, That it shall be lawful for every person
to devise, bequeath or dispose of, by his Will executed in manner
hereinafter required, all real estate and all personal estate which
he shall be entitled to, either at law or in equity, at the time of his
death, and which if not so devised, bequeathed or disposed of, would
devolve upon the heir-at-law, or customary heir of him, or, if
he became entitled by descent, of his ancestor, or upon his executor
or administrator; and that the power hereby given shall extend
6 to all real estate of the nature of customary freehold or tenant
right, or customary or copyhold, notwithstanding that the Testator
may not have surrendered the same to the use of his Will, or not-
withstanding that, being entitled as heir, devisee, or otherwise to
be admitted thereto, he shall not have been admitted thereto, or not-
withstanding that the same, in consequence of the want of a custom
to devise or surrender to the use of a Will or otherwise, could not at
law have been disposed of by Will if this Act had not been made,
or notwithstanding that the same, in consequence of there being
a custom that a Will or a surrender to the use of a Will should
continue in force for a limited time only, or any other special
custom could not have been disposed of by Will according to the
power contained in this Act, if this Act had not been made; and
also to estates *pur autre vie*, whether there shall or shall not be any
special occupant thereof, and whether the same shall be freehold,
customary freehold, tenant right, customary or copyhold, or of
any other tenure, and whether the same shall be a corporeal or an
incorporeal hereditament; and also to all contingent, executory or

Rights of Entry;

and Property acquired after the execution of the Will.

other future interests in any real or personal estate, whether the 7
Testator may or may not be ascertained as the person or one of the persons in whom the same respectively may become vested, and whether he may be entitled thereto under the instrument by which the same respectively were created, or under any disposition thereof by Deed or Will; and also to all rights of entry for conditions broken, and other rights of entry; and also to such of the same estates, interests and rights respectively, and other real and personal estate, as the Testator may be entitled to at the time of his death, notwithstanding that he may become entitled to the same subsequently to the execution of his Will.

4.
Devisees of Customary and Copyhold Estates capable of being surrendered to the use of the Will to pay, where there has been no such Surrender, the like Fees as would have been payable on such Surrender, and also where the Testator was entitled to Admittance, and was not admitted, and might after Admittance have surrendered to the use of his Will, the like Fine and Fees as would have been payable on such Admittance and Surrender.
55 G. 3. c. 192. s. 2.

Provided always, and be it further Enacted, That where any real estate of the nature of customary freehold or tenant right, or customary or copyhold, might, by the custom of the manor of which the same is holden, have been surrendered to the use of a Will, and the Testator shall not have surrendered the same to the use of his Will, no person entitled or claiming to be entitled thereto by virtue of such Will, shall be entitled to be admitted, except upon payment 8
of all such stamp duties, fees and sums of money as would have been lawfully due and payable in respect of the surrendering of such real estate to the use of the Will, or in respect of presenting, registering or enrolling such surrender, if the same real estate had been surrendered to the use of the Will of such Testator: Provided also, That where the Testator was entitled to have been admitted to such real estate, and might, if he had been admitted thereto, have surrendered the same to the use of his Will, and shall not have been admitted thereto, no person entitled or claiming to be entitled to such real estate in consequence of such Will, shall be entitled to be admitted to the same real estate by virtue thereof, except on payment of all such stamp duties, fees, fine and sums of money as would have been lawfully due and payable in respect of the 9
admittance of such testator to such real estate, and also of all such stamp duties, fees and sums of money as would have been lawfully due and payable in respect of surrendering such real estate to the use of the Will, or of presenting, registering or enrolling such surrender, had the testator been duly admitted to such real estate, and afterwards surrendered the same to the use of his Will; all which stamp duties, fees, fine or sums of money due as aforesaid shall be paid in addition to the stamp duties, fees, fine or sums of money due or payable on the admittance of such person so entitled or claiming to be entitled to the same real estate as aforesaid.

5.
Wills or Extracts of Wills of Customary Freeholds and Copyholds to be entered on the Court Rolls;

And be it further Enacted, That when any real estate of the nature of customary freehold, or tenant right, or customary or copyhold, shall be disposed of by Will, the lord of the manor or reputed manor of which such real estate is holden, or his steward, or the deputy of such steward, shall cause the Will by which such disposition shall be made, or so much thereof as shall contain the disposition of such real estate, to be entered on the Court Rolls of such manor or reputed manor; and when any Trusts are declared by the Will of such real estate, it shall not be necessary to enter the declaration of such Trusts, but it shall be sufficient to state in the entry on the Court Rolls that such real estate is subject to the Trusts declared by such Will; and when any such real estate could not have been disposed of by Will if this Act had not been made, the same fine, heriot, dues, duties and services shall be paid and rendered by the Devisee as would have been due from the customary heir in case of the descent of the same real estate, and the lord shall, as against the Devisee of such estate, have the same remedy for recovering and enforcing such fine, heriot, dues, duties and services as he is now entitled to for recovering and enforcing the same from or against the customary heir in case of a descent.

and the Lord to be entitled to the same Fine, &c. when such Estates are not now devisable as he would have been entitled to from the Heir in case of Descent.

6.

Estates pur autre vie in Freehold to be Assets in the hands of the Heir where special Occupant, and where there is no special Occupant, or the Executors or Administrators are special Occupants, to go to the Executors or Administrators, and be applied like the Personal Estate, 29 Ch. 2. c. 3. s. 12. 14 G. 2. c. 20. s. 9.

And be it further Enacted, That if no disposition by Will shall be made of any estate *pur autre vie* of a freehold nature, the same shall be chargeable in the hands of the heir, if it shall come to him by reason of special occupancy, as assets by descent, as in the case of freehold land in fee simple; and in case there shall be no special occupant of any estate *pur autre vie*, whether freehold or customary freehold, tenant right, customary or copyhold, or of any other tenure, and whether a corporeal or incorporeal hereditament, it shall go to the executor or administrator of the party that had the estate thereof by virtue of the grant; and if the same shall come to the executor or administrator either by reason of a special occupancy or by virtue of this Act, it shall be assets in his hands, and shall go and be applied and distributed in the same manner as the personal estate of the testator or intestate.

7.

No Person to be capable of making a Will under the Age of 21.

And be it further Enacted, That no Will made by any person under the age of Twenty-one Years shall be valid.

8.

A Feme Covert not to be capable of making a Will, except such as might now be made by her.

Provided also, and be it further Enacted, That no Will made by any Married Woman shall be valid, except such a Will as might have been made by a Married Woman before the passing of this Act.

9.

Every Will shall be in Writing, and signed at the end by the Testator, in the presence of Two Witnesses, at one time, Sec. 5, of the Statute of Frauds.

And be it further Enacted, That no Will shall be valid unless it shall be in writing and executed in manner hereinafter mentioned; (that is to say) it shall be signed at the foot or end thereof by the Testator, or by some other person in his presence and by his direction; and such signature shall be made or acknowledged by the Testator in the presence of Two or more witnesses present at the same time, and such witnesses shall subscribe the Will in the presence of the Testator, but no form of attestation shall be necessary.

10.
Appointments by Will, to be executed like other Wills, and to be valid, although other Solemnities required by the Power are not observed.

And be it further Enacted, That no appointment made by Will, in exercise of any power, shall be valid, unless the same be executed in manner hereinbefore required; and every Will executed in manner hereinbefore required shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by Will, notwithstanding that it shall have been expressly required that a Will made in exercise of such power should be executed with some additional or other form of execution or solemnity.

11.
Soldiers' and Mariners' Wills excepted, Sec. 23. of the Statute of Frauds.

Provided always, and be it further Enacted, That any Soldier being in actual military service, or any Mariner or Seaman being at sea, may dispose of his personal estate as he might have done before the making of this Act.

12.
Act not to affect the Provisions of the 11th G. 4, and 1 W. 4, c. 20, s. 48 to 65, with respect to Wills of Petty Officers and Seamen in the Navy, and Non-commissioned Officers of Marines, and Marines.

And be it further Enacted, That this Act shall not prejudice or affect any of the provisions contained in an Act passed in the eleventh year of the reign of His late Majesty King George the Fourth, and the first year of the reign of His present Majesty, intituled, "An Act to amend and consolidate the Laws relating to the Pay of the Royal Navy," respecting the Wills of Petty Officers and Seamen in the Royal Navy, and Non-commissioned Officers of 13 Marines, and Marines, so far as relates to their wages, pay, prize-money, bounty-money and allowances, or other monies payable in respect of services in His Majesty's Navy.

13.
Publication not to be requisite.

And be it further Enacted, That every Will executed in manner hereinbefore required, shall be valid without any other publication thereof.

14.
Will not to be void on account of incompetency of attesting Witness.

And be it further Enacted, That if any person who shall attest the execution of a Will, shall at the time of the execution thereof, or at any time afterwards, be incompetent to be admitted a witness to prove the execution thereof, such Will shall not on that account be invalid.

15.
Gifts to an attesting Witness to be void, 25 G. 2, c. 6, s. 1.

And be it further Enacted, That if any person shall attest the execution of any Will to whom or to whose wife or husband any beneficial devise, legacy, estate, interest, gift or appointment of or affecting any real or personal estate, (other than and except charges and directions for the payment of any debt or debts), shall be thereby given or made, such devise, legacy, estate, interest, gift or appointment, shall, so far only as concerns such person attesting the execution of such Will, or the wife or husband of such person, or any person claiming under such person or wife or husband, be utterly null

and void, and such person so attesting shall be admitted as a witnes
to prove the execution of such Will, or to prove the validity or in-
14 validity thereof, notwithstanding such devise, legacy, estate, interest,
gift or appointment mentioned in such Will.

16.
Creditor attesting, to be admitted a Witness, 25 G. 2, c. 6, s. 2.

And be it further Enacted, That in case by any Will any real or personal estate shall be charged with any debt or debts, and any creditor, or the wife or husband of any creditor, whose debt is so charged, shall attest the execution of such Will, such creditor, notwithstanding such charge, shall be admitted a witness to prove the execution of such Will, or to prove the validity or invalidity thereof.

17.
Executor to be admitted a Witness.

And be it further Enacted, That no person shall, on account of his being an executor of a Will, be incompetent to be admitted a witness to prove the execution of such Will, or a witness to prove the validity or invalidity thereof.

18.
Will to be revoked by Marriage.

And be it further Enacted, That every Will made by a man or woman shall be revoked by his or her marriage, (except a Will made in exercise of a power of appointment, when the real or personal estate thereby appointed would not in default of such appointment pass to his or her heir, customary heir, executor or administrator, or the person entitled as his or her next of kin, under the Statute of Distributions.)

19.
No Will to be revoked by Presumption.

And be it further Enacted, That no Will shall be revoked by any presumption of an intention on the ground of an alteration in circumstances.

20.
No Will to be revoked but by another Will or Codicil, or by a Writing executed like a Will, or by destruction, Sec. 6, of the Statute of Frauds.

15 And be it further Enacted, That no Will or Codicil, or any part
thereof, shall be revoked otherwise than as aforesaid, or by another Will or Codicil executed in manner hereinbefore required, or by some writing declaring an intention to revoke the same, and executed in the manner in which a Will is hereinbefore required to be executed, or by the burning, tearing or otherwise destroying the same by the Testator, or by some person in his presence and by his direction, with the intention of revoking the same.

21.
No alteration in a Will shall have any effect unless executed as a Will.

And be it further Enacted, That no obliteration, interlineation or other alteration made in any Will after the execution thereof, shall be valid or have any effect, except so far as the words or effect of the Will before such alteration shall not be apparent, unless such alteration shall be executed in like manner as hereinbefore is required for the execution of the Will; but the Will, with such alteration as part thereof, shall be deemed to be duly executed, if the signature of the Testator and the subscription of the witnesses be made in the margin

margin or on some other part of the Will opposite or near to such alteration, or at the foot or end of or opposite to a memorandum referring to such alteration, and written at the end or some other part of the Will.

22.
No Will revoked to be revived otherwise than by re-execution, or a Codicil to revive it.

And be it further Enacted, That no Will or Codicil, or any part thereof, which shall be in any manner revoked, shall be revived otherwise than by the re-execution thereof, or by a Codicil executed in manner hereinbefore required, and showing an intention to revive the same; and when any Will or Codicil which shall be partly revoked, and afterwards wholly revoked, shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary shall be shown.

23.
A Devise not to be rendered inoperative by any subsequent conveyance or act.

And be it further Enacted, That no conveyance or other act made or done subsequently to the execution of a Will of or relating to any real or personal estate therein comprised, except an act by which such Will shall be revoked as aforesaid, shall prevent the operation of the Will with respect to such estate or interest in such real or personal estate as the Testator shall have power to dispose of by Will at the time of his death.

24.
A Will shall be construed to speak from the death of the Testator.

And be it further Enacted, That every Will shall be construed, with reference to the real estate and personal estate comprised in it, to speak and take effect as if it had been executed immediately before the death of the Testator, unless a contrary intention shall appear by the Will.

25.
A Residuary Devise shall include Estates comprised in lapsed and void devises.

And be it further Enacted, That, unless a contrary intention shall appear by the Will, such real estate or interest therein as shall be comprised or intended to be comprised in any devise in such Will contained, which shall fail or be void by reason of the death of the devisee in the lifetime of the Testator, or by reason of such devise being contrary to law, or otherwise incapable of taking effect, shall be included in the residuary devise (if any) contained in such Will.

26.
A general devise of the Testator's lands shall include Copyhold and Leasehold as well as Freehold Lands.

And be it further Enacted, That a devise of the land of the Testator, or of the land of the Testator in any place or in the occupation of any person mentioned in his Will, or otherwise described in a general manner, and any other general devise which would describe a customary, copyhold or leasehold estate, if the Testator had no freehold estate which could be described by it, shall be construed to include the customary, copyhold and leasehold estates of the Testator, or his customary, copyhold and leasehold estates, or any of them, to which such description shall extend (as the case may be), as well as freehold estates, unless a contrary intention shall appear by the Will.

27.
A general Gift shall include Estates over which the Testator has a general power of appointment.

And be it further Enacted, That a general devise of the real estate of the Testator, or of the real estate of the Testator in any place or in the occupation of any person mentioned in his Will, or otherwise described in a general manner, shall be construed to include any real estate, or any real estate to which such description shall extend (as the case may be), which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention shall appear by the Will;
18 and in like manner a bequest of the personal estate of the Testator, or any bequest of personal estate described in a general manner, shall be construed to include any personal estate, or any personal estate to which such description shall extend (as the case may be), which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention shall appear by the Will.

28.
A Devise without any words of limitation, shall be construed to pass the Fee.

And be it further Enacted, That where any real estate shall be devised to any person without any words of limitation, such devise shall be construed to pass the fee simple, or other the whole estate or interest which the Testator had power to dispose of by Will in such real estate, unless a contrary intention shall appear by the Will.

29.
The words "die without Issue," or "die without leaving Issue," shall be construed to mean die without Issue living at the Death.

And be it further Enacted, That in any devise or bequest of real or personal estate the words "die without issue," or "die without leaving issue," or "have no issue," or any other words which may import either a want or failure of issue of any person in his lifetime or at the time of his death, or an indefinite failure of his issue, shall be construed to mean a want or failure of issue in the lifetime or at the time of the death of such person, and not an indefinite failure of his issue, unless a contrary intention shall appear by the Will, by reason of such person having a prior estate tail, or of a preceding gift, being, without any implication arising from such words, a limitation of an estate tail to such person or issue, or otherwise:
19 Provided, That this Act shall not extend to cases where such words as aforesaid import if no issue described in a preceding gift shall be born, or if there shall be no issue who shall live to attain the age or otherwise answer the description required for obtaining a vested estate by a preceding gift to such issue.

30.
No Devise to Trustees or Executors, except for a term or a presentation to a Church, shall pass a chattel interest.

And be it further Enacted, That where any real estate (other than or not being a presentation to a church) shall be devised to any trustee or executor, such devise shall be construed to pass the fee simple or other the whole estate or interest which the Testator had power to dispose of by Will in such real estate, unless a definite term of years, absolute or determinable, or an estate of freehold, shall thereby be given to him expressly or by implication.

31.
Trustees under an unlimited Devise, where the Trust may endure beyond the life of a person beneficially entitled for life, to take the fee.

And be it further Enacted, That where any real estate shall be devised to a Trustee, without any express limitation of the estate to be taken by such Trustee, and the beneficial interest in such real estate, or in the surplus rents and profits thereof, shall not be given to any person for life, or such beneficial interest shall be given to any person for life, but the purposes of the trust may continue beyond the life of such person, such Devise shall be construed to vest in such Trustee the fee-simple, or other the whole legal estate which the Testator had power to dispose of by Will in such real estate, and not an estate determinable when the purposes of the 20
trust shall be satisfied.

32.
Devises of Estates tail shall not lapse.

And be it further Enacted, That where any person to whom any real estate shall be devised for an estate tail, or an estate in quasi entail, shall die in the lifetime of the Testator, leaving issue who would be inheritable under such entail, and any such issue shall be living at the time of the death of the Testator, such devise shall not lapse, but shall take effect as if the death of such person had happened immediately after the death of the Testator, unless a contrary intention shall appear by the Will.

33.
Gifts to children or other issue who leave issue living at the Testator's death, shall not lapse.

And be it further Enacted, That where any person being a child or other issue of the Testator to whom any real or personal estate shall be devised or bequeathed for any estate or interest not determinable at or before the death of such person, shall die in the lifetime of the Testator leaving issue, and any such issue of such person shall be living at the time of the death of the Testator, such devise or bequest shall not lapse, but shall take effect as if the death of such person had happened immediately after the death of the Testator, unless a contrary intention shall appear by the Will.

34.
Act not to extend to Wills made before 1838, nor to Estates pur autre vie of persons who die before 1838.

And be it further Enacted, That this Act shall not extend to any Will made before the First day of January One thousand eight hun- 21
dred and Thirty-eight, and that every Will re-executed or republished, or revived by any Codicil, shall for the purposes of this Act be deemed to have been made at the time at which the same shall be so re-executed, republished or revived; and that this Act shall not extend to any estate *pur autre vie* of any person who shall die before the First day of January One thousand eight hundred and Thirty-eight.

35. Act not to extend to Scotland.

And be it further Enacted, That this Act shall not extend to *Scotland.*

36. Act may be altered in the present Session.

And be it further Enacted, That this Act may be amended, altered or repealed by any Act or Acts to be passed in this present Session of Parliament.

Wills.

A

BILL,

(FROM THE LORDS),

INTITULED

AN ACT for the Amendment of the Laws
with respect to Wills.

Ordered, by The House of Commons, *to be Printed,*
21 *March* 1837.

141.

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(Ireland.)

A
BILL

To amend the Acts for the Extension and Promotion of Public Works in Ireland.

[Note.—The Words and Clauses printed in *Italics* are proposed to be inserted in the Committee.]

Preamble: 1 & 2 W. 4.

WHEREAS by an Act passed in the first and second years of His present Majesty's reign, intituled, "An Act for the Extension and Promotion of Public Works in Ireland," the provisions whereof were amended and extended by an Act passed in the last Session of Parliament, the Commissioners acting under and in execution thereof were authorized to make Advances by way of Loan to a certain amount in the said Acts limited, in aid of the execution of Public Works in Ireland, and were also authorized to make Advances for the like purpose by way of Grant, in aid of the construction of certain Works, to an amount not exceeding in the whole the sum of Fifty thousand Pounds:

And whereas it is expedient, with a view to the further promotion of Public Works in Ireland, and the employment of the labouring Population, that the said Commissioners should be enabled to make Advances to an additional amount, by way of Grant, and that provision should be made for making Advances for the execution of Public Works under certain circumstances, partly by way of Loan and partly by way of Grant; that is to say, by Loan to the extent of one moiety of such Advances, and by Grant to the extent of the other moiety thereof;

BE it therefore Enacted, by The KING's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the

Authority

1.
The Commissioners of Public Works may make additional Grants to the extent of £. 50,000.

Authority of the same, THAT *it shall and may be lawful for the said Commissioners, under the like conditions and regulations, and for the purposes of the said Acts and this Act, to make additional advances by way of grant, to an amount not exceeding in the whole the sum of Fifty thousand Pounds, and for the Lords Commissioners of His Majesty's Treasury, or any Three or more of them, to cause to be issued from time to time as they may find necessary, out of the growing produce of the Consolidated Fund of the United Kingdom of Great Britain and Ireland arising in Ireland, in addition to the said sum of Fifty thousand Pounds, to which the issues for the purposes of the Grants to be made under the said Acts were thereby limited, any further sum or sums of money not exceeding in the whole the said sum of Fifty thousand Pounds, to be applied to the purposes of the said Acts and this Act accordingly.*

2.
Provisions of former Acts shall apply to Grants under this Act.

And be it Enacted, That all and every the provisoes, powers, privileges, advantages, forfeitures and disabilities contained or expressed in the said recited Acts, in respect of the Grants authorized to be made thereunder, shall be applied and extend to the Grants to be made under authority of this Act, as fully and effectually to all intents and purposes as if the same were herein repeated and enacted.

3.
Applications for the execution of Public Works with Money, partly by way of Loan and partly by way of Grant, may be made by Presentment Sessions.

And be it Enacted, That if any *Three* or more Justices of the Peace, not being Stipendiary Magistrates, in and for any county, county of a city or county of a town in Ireland, shall think it expedient to make application for the construction of any Public Work, on the terms and under the regulations hereinafter contained for the repayment of a moiety of the expense of executing such Work, it shall and may be lawful for them, by notice under their hands, to be posted on the places appointed for posting notices of applications to Presentment Sessions in the barony or half barony in which such Work is proposed to be executed, to convene a special meeting of the Justices and Cess-payers associated with such Justices at the last Special or Presentment Sessions held in such barony or half barony for the purposes of an Act passed in the last Session of Parliament, intituled, "An Act to consolidate and amend the Laws relating to the Presentment of Public Money by Grand Juries in Ireland;" and such meeting shall be held at the place appointed for the holding of such Special or Presentment Sessions, at such time as shall be specified in such notice, not being sooner than *Seven* Days from the time of posting such notice; and the senior Justice present at such meeting shall preside thereat, and shall have in addition to his vote a casting voice in case of an equality of voices; and if a majority of such Justices and Cess-payers assembled at such Special Sessions shall so think fit, the Chairman shall apply by memorial to the Lord Lieutenant, or other Chief Governor or Governors of Ireland, on behalf of the Justices and Cess-payers assembled at such Sessions, praying that the Work described in such memorial may be

executed

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executed, and that a sum not exceeding the amount in such memorial mentioned, may be advanced for that purpose; a moiety thereof to be repaid by Grand Jury Presentment, as hereinafter mentioned.

4. Lord Lieutenant may refer such applications to the Board of Public Works for their Report, and such Report may be laid before the Lords of the Treasury, who shall have authority to direct the execution of the Works so applied for.

And be it Enacted, That upon any such application by memorial as aforesaid, it shall be lawful for the said Lord Lieutenant, or other Chief Governor or Governors, if he or they shall so think fit, to authorize and direct the said Commissioners acting under and in execution of the said Acts, to inquire into the nature of the said proposed Work, and the utility thereof, and the benefit which may arise therefrom in affording present employment for the labouring population, and the permanent demand for labour likely to grow thereout, and the sum necessary for the execution thereof; and it shall be lawful for the said Commissioners, if they shall be so directed, or think necessary, to appoint and employ the County Surveyor, or any other competent Surveyor or Surveyors to make a survey and estimate of the said proposed Work, and to prepare such Map, Plan, Section or Specification thereof as may be necessary, and to report thereon to the said Lord Lieutenant, or other Chief Governor or Governors, who shall take the same into his or their consideration, and if he or they shall so think fit, transmit the same to the Lords Commissioners of His Majesty's Treasury for their sanction and approval; and if the said Lords Commissioners of the Treasury shall think fit to authorize the Work specified in the said application, or any modification thereof, which they may think proper to be undertaken, they shall, by warrant under their hands, or under the hands of any *Three* or more of them, direct the said Commissioners acting under and in execution of the said Acts, to execute such Work, at and for an amount not exceeding a sum to be specified in such Warrant, nor exceeding the sum mentioned in the said application for the execution of such Work; and shall also in and by such Warrant specify when and how the moiety of the Money to be expended in the execution of such Work shall be repaid, and if by instalments, the periods and amount thereof, and the rate of interest (if any) to be paid on the amount from time to time remaining due: Provided always, That it shall and may be lawful for the said Commissioners of the Treasury, or any *Three* or more of them, by any like Warrant or Warrants, from time to time to make such directions and to give other directions as they may think fit in respect of the repayment of the said moiety, or the rate of interest chargeable thereon or any part thereof, at any time remaining unpaid.

5. The Board of Works shall proceed with such Works, if sanctioned by the Treasury.

And be it Enacted, That the said Commissioners acting under and in execution of the said Acts shall, upon the receipt of such Warrant, forthwith cause the construction of the Work mentioned therein to be proceeded with, and shall for such purpose have and use all such powers and authorities as they are by the said Acts invested with for the construction of any road, bridge or other work, for the construction whereof a grant shall have been sanctioned by the said Lords Commissioners of the Treasury.

6.

A Moiety of the Money required for the execution of the Work, shall be issued out of the Consolidated Fund.

And be it Enacted, That one moiety of the Monies required for the execution of Works undertaken upon such applications as hereinbefore mentioned shall be advanced out of the produce of the said Consolidated Fund arising in Ireland; and the said Lords Commissioners of the Treasury shall cause the same to be issued thereout accordingly from time to time as they shall think fit, upon the application of the said Commissioners acting under and in execution of the said Acts; and the Monies so to be from time to time issued for the purpose last aforesaid shall be accounted to be part of the Money by the said Acts and this Act authorized to be issued by way of Grant.

7.

The other Moiety shall be supplied out of the Loan Funds, by way of Exchequer Bills.

And be it Enacted, That the other moiety of the Monies required for the execution of the said Works, shall be supplied by the issue of Exchequer Bills, in like manner as in the case of advances by way of Loan under the said recited Acts; and that the said Lords Commissioners of the Treasury shall cause such Exchequer Bills to be made out and delivered to the Teller of His Majesty's Exchequer in Ireland, to be by him issued and delivered upon the warrant in writing of the said Commissioners acting under and in execution of the said Acts to the person in such warrant named as by the said Acts provided in the case of advances by way of Loan under the said Acts; and that the amount of the Exchequer Bills so issued and delivered shall be deemed and accounted to be a part of the sum to which the issue of Exchequer Bills for the purposes of the said Acts is thereby limited.

8.

A Moiety of the Money so advanced shall be raised by Grand Jury Presentment off the Barony in which the Work may have been executed, or off the County at large, as the Grand Jury shall determine.

And be it Enacted, That a moiety of the Monies so from time to time advanced for the execution of Public Works in any county, pursuant to the application of the Justices and Cess-payers assembled at Special Sessions as aforesaid, shall be repaid by Grand Jury Presentment, at such time and in such manner and with such interest as the said Lords Commissioners of the Treasury shall appoint and direct; and the said Commissioners acting under and in execution of the said Acts shall from time to time, as they may be directed by the said Lords Commissioners of the Treasury, certify to the Secretary of the Grand Jury of each such County the Money so to be repaid; and each such Secretary shall lay such Certificate before the Grand Jury of such county at the next Assizes after he shall receive the same; and it shall be lawful for such Grand Jury and they are hereby required to present the sum mentioned in every such Certificate, to be raised either off the county at large or off the barony or half barony in which the Work to which such Certificate may relate shall have been executed, as they may think fit; and the Treasurer of such County shall pay the sum so presented when and as by him received to such bank or person as the said Lords Commissioners of the Treasury shall direct, to be by them carried to the same account as other monies received in payment of loans under the said Acts: Provided always, That if the Grand Jury of any county shall fail to present the sum mentioned in any such Certificate, the Treasurer of such county shall and he is hereby required to insert such sum in his warrant for raising the monies presented at the same Assizes, as if such sum had been presented by such Grand Jury to be raised off the county at large; and the same shall be raised and levied off such county accordingly, as if the same had been so presented; and the said Treasurer shall pay over the amount, when by him received, as hereinbefore provided, in the case of such money being presented.

If Grand Jury shall not present, the Money shall be raised, without any Presentment, off the County at large.

9.
Treasury may cancel certain Exchequer Bills now in existence, and applicable to the purposes of the said Acts.

AND whereas it has been found that certain Exchequer Bills, applicable to the purposes of the said recited Acts, and now in the custody of the Teller of His Majesty's Exchequer in Ireland, are of an inconvenient date and amount; BE it therefore Enacted, That it shall and may be lawful for the said Lords Commissioners of His Majesty's Treasury to cause any Exchequer Bills heretofore made out and issued, and applicable to the purposes of the said recited Acts, to be cancelled, and in lieu of the Exchequer Bills so cancelled to cause other Exchequer Bills to be made out, of such date and amount, and bearing such rate of interest as the said Lords Commissioners shall think fit, subject nevertheless to the provisions of the said first-recited Act, in respect of such Exchequer Bills.

10.
This Act may be altered this Session.

And be it Enacted, That this Act may be altered or repealed by any Act or Acts to be passed in this present Session of Parliament.

Public Works (Ireland).

(Ireland.)

A

B I L L

To amend the Acts for the Extension and Promotion of Public Works in Ireland.

(*Prepared and brought in by*
Mr. Chancellor of the Exchequer and
Lord Viscount Morpeth.)

Ordered, by The House of Commons, *to be Printed,*
28 *April* 1837.

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